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

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: November 20, at 9 a.m.
WHERE: National Archives and Records Administration, Room 410, 8th and Pennsylvania Avenue NW., Washington, DC.
RESERVATIONS: Robert D. Fox, 202-523-5239.

Contents

Federal Register
Vol. 52, No. 213
Wednesday, November 4, 1987

Agricultural Marketing Service
RULES
Milk marketing orders:
Eastern Colorado, 42269
Oranges (navel) grown in Arizona and California, 42269
PROPOSED RULES
Egg and egg products inspection and grading:
Egg solids requirement of egg products, 42297
Honey research, promotion, and consumer information order, 42300
Walnuts grown in California, 42298

Agriculture Department
See also Agricultural Marketing Service; Farmers Home Administration
NOTICES
Agency information collection activities under OMB review, 42327

Architectural and Transportation Barriers Compliance Board
NOTICES
Agency information collection activities under OMB review, 42327

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
New York, 42328

Commerce Department
See Economic Analysis Bureau; Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
China, 42332
Haiti, 42332
Mexico, 42333

Copyright Royalty Tribunal
NOTICES
Meetings; Sunshine Act, 42396

Customs Service
PROPOSED RULES
Merchandise entry:
Consolidate shipments; broker designations, 42310

Defense Department
See also Navy Department
NOTICES
Agency information collection activities under OMB review, 42334
Meetings:
Strategic Defense Initiative Advisory Committee, 42334

Economic Analysis Bureau
RULES
International trade surveys:
U.S. trade in services with foreign persons—
Reporting and recordkeeping requirements, 42275

Education Department
NOTICES
Education Appeal Board hearings:
Applications for review, 42335
Meetings:
Education Statistics Advisory Council, 42335

Employment and Training Administration
NOTICES
Adjustment assistance:
RCA Cathode Ray Tube Manufacturing Operation, 42354

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Isopropyl isocinchomeronate and nicotine, 42290
Oxyflurofen, 42291
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
Polypropylene, polyethylene, polystyrene, and poly(ethylene terephthalate) manufacturing industry, 42326
Air quality implementation plans; approval and promulgation; various States:
Connecticut, 42323, 42325
(2 documents)
NOTICES
Fuel economy retrofit device evaluation:
DeACC Devices, Inc.; emission control device, 42338

Executive Office of the President
See Management and Budget Office

Farmers Home Administration
RULES
Program regulations:
Servicing and collections—
Community program loans servicing to charge transfer fee, 42271

Federal Aviation Administration
RULES
Airworthiness directives:
Teledyne Continental Motors; correction, 42397
Jet routes, 42274
Jet routes; correction, 42255
Restricted areas; correction, 42397
VOR Federal airways, 42272
VOR Federal airways and jet routes, 42274
VOR Federal airways; correction, 42273

PROPOSED RULES
Airworthiness directives:
Aerospatiale, 42308
VOR Federal airways, 42309

Federal Deposit Insurance Corporation
PROPOSED RULES
Powers inconsistent with Federal deposit insurance law:
Insurance underwriting and real estate development, etc., 42304

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Florida Power & Light Co. et al., 42335
Natural gas certificate filings:
American Distribution Co. et al., 42336
Small power production and cogeneration facilities, qualifying status:
Altresco-Pittsfield, Inc., et al., 42338

Federal Highway Administration
NOTICES
Enviornmental statements; notice of intent:
Holmes County, FL, 42394

Federal Maritime Commission
NOTICES
Agreements filed, etc., 42339

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 42396

Federal Reserve System
PROPOSED RULES
Bank holding companies and change in bank control (Regulation Y); and membership in State banking institutions (Regulation H):
Subsidiaries; real estate investment and development activities, 42301
NOTICES
Agency information collection activities under OMB review, 42340
Applications, hearings, determinations, etc.:
Amsterdam-Rotterdam Bank N.V., 42340
First Bancshares, Inc., et al., 42340
Mack, Harry W., et al., 42341
National Westminster Bank PLC, 42342
Norwest Corp., 42341
PNC Financial Corp., 42342
Quad County Bancshares, Inc., et al., 42343
TrustCorp, Inc., et al., 42343
Union Planters Corp., 42344

Food and Drug Administration
RULES
Human drugs:
Antibiotic drugs—
Sterile sulbactam sodium, sterile ampicillin sodium and sulbactam sodium, 42287

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Texas
Food processing operations, 42328

General Services Administration
RULES
Federal Information Resources Management Regulation:
Federal telecommunications system; authorized use of long distance telephone services by Federal employees, 42292

Health and Human Services Department
See Food and Drug Administration

Independent Counsel Office
PROPOSED RULES
Privacy Act; implementation, 42314
NOTICES
Privacy Act; systems of records, 42344, 42346, 42347 (3 documents)

Indian Affairs Bureau
NOTICES
Land transfers:
Pueblos in Albuquerque, NM, 42351

Interior Department
See also Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service
NOTICES
National Environmental Policy Act; implementation, 42349

International Trade Administration
NOTICES
Antidumping:
Bicycle speedometers from Japan, 42329
Countervailing duties:
Leather wearing apparel from Colombia, 42330

International Trade Commission
NOTICES
Meetings; Sunshine Act, 42396 (2 documents)

Justice Department
RULES
Acquisition regulations:
Competition advocacy function; transfer to Personnel and Administration Office, 42295

Labor Department
See Employment and Training Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration; Pension and Welfare Benefits Administration

Land Management Bureau
NOTICES
Opening of public lands:
Arizona, 42352 (2 documents)

Management and Budget Office
NOTICES
Budget rescissions and deferrals, 42400

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
Clinchfield Coal Co., 42354
Double L. Coal Corp., 42354
Island Creek Corp., 42355

Mettiki Coal Corp., 42355
Old Ben Coal Co., 42355
Ratliff Elkhorn Coal Co., Inc., 42356
Webster County Coal Corp., 42356

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
Amoco Production Co., 42352

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Porshe Cars of North America, Inc., 42394

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic swordfish, 42295
Gulf of Mexico and South Atlantic coastal migratory pelagic resources, 42296
PROPOSED RULES
Fishery conservation and management:
Foreign fishing—
Poundage and permit fee schedule, 42408
NOTICES
Permits:
Marine mammals, 42331
(3 documents)

National Park Service
NOTICES
National Register of Historic Places:
Pending nominations—
Connecticut et al., 42353

National Transportation Safety Board
NOTICES
Meetings; Sunshine Act, 42396

Navy Department
NOTICES
Meetings:
Chief of Naval Operations Executive Panel Advisory Committee, 42334

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Portland General Electric Co. et al., 42382
Operating licenses, amendments; no significant hazards considerations:
Bi-weekly notices, 42357

Occupational Safety and Health Administration
PROPOSED RULES
Safety and health standards:
Occupational noise standard, 42321

Office of Independent Counsel
See Independent Counsel Office

Office of Management and Budget
See Management and Budget Office

Pension and Welfare Benefits Administration
PROPOSED RULES
Employee benefit plans:
Participant directed individual account plans, 42322
NOTICES
Meetings:
Employee Welfare and Pension Benefit Plans Advisory Council, 42357

Public Health Service
See Food and Drug Administration

Securities and Exchange Commission
RULES
Investment companies:
Foreign banks or foreign bank finance subsidiaries; offer or sale of debt securities and non-voting preferred stock, 42280
Securities:
Foreign government securities; futures trading exemptions—
Australia, France, and New Zealand, 42277
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 42391
Philadelphia Stock Exchange, Inc., 42393
Self-regulatory organizations; unlisted trading privileges:
Midwest Stock Exchange, Inc., 42392
Philadelphia Stock Exchange, Inc., 42393
Applications, hearings, determinations, etc.:
Computer Factory, Inc., 42391
Crown America Life Insurance Co., 42382
Dreyfus Variable Life Investment Fund, 42385
Hartford Life Insurance Co. et al., 42387
Public utility holding company filings, 42390
Shearson Daily Dividend Inc. et al., 42388

Small Business Administration
PROPOSED RULES
Business loan policy:
Secondary market loan or pool certificates; sale privilege suspension or revocation, 42305

State Department
NOTICES
Agency information collection activities under OMB review, 42394

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration

Treasury Department
See also Customs Service
NOTICES
Agency information collection activities under OMB review, 42395

Separate Parts In This Issue

Part II
Office of Management and Budget, 42400

Part III
Department of Commerce, National Oceanic and Atmospheric Administration, 42408

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
907 42269
1137 42269
1951 42271
Proposed Rules:
59 42297
984 42298
1240 42300

12 CFR
Proposed Rules:
208 42301
225 42301
332 42304

13 CFR
Proposed Rules:
120 42305

14 CFR
39 42397
71 (3 documents) 42272-42274
73 42397
75 (3 documents) 42274, 42275
Proposed Rules:
39 42308
71 42309

15 CFR
806 42275

17 CFR
240 42277
270 42280
274 42280

19 CFR
Proposed Rules:
141 42310
178 42310

21 CFR
430 42287
440 42287
455 42287

28 CFR
Proposed Rules:
700 42314

29 CFR
Proposed Rules:
1910 42321
2550 42322

40 CFR
180 (2 documents) 42290, 42291
Proposed Rules:
52 (2 documents) 42323, 42325
60 42326

41 CFR
201-38 42292

48 CFR
2806 42295

50 CFR
630 42295
642 42296
Proposed Rules:
611 42408

Rules and Regulations

Federal Register
Vol. 52, No. 213
Wednesday, November 4, 1987

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 657, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 657, Amendment 1, removes restrictions on the quantity of California-Arizona navel oranges that may be shipped to market during the period October 30, 1987 through November 5, 1987.

DATES: The amendment is effective for the period October 30, 1987, through November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 (7 CFR Part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

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 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order, and approximately 4,065 producers in California and Arizona. 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 $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The great majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

This action is consistent with the marketing policy for 1987-88 adopted by the Navel Orange Administration Committee (NOAC). The NOAC conducted a telephone vote on October 29, 1987, to consider the current and prospective conditions of supply and demand and recommended open movement in all districts. The NOAC reports that rain has hampered the harvest of navel oranges and supplies will be limited.

Based on consideration of supply and market conditions, and the evaluation of alternatives to the implementation of prorate regulations, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. To effectuate the declared purposes of the Act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR Part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read as follows:

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

2. Section 907.957 (52 FR 41693) is revised to read as follows:

§ 907.957 Navel Orange Regulation 657.

The quantity of navel oranges grown in California and Arizona which may be handled during the period October 30, 1987, through November 5, 1987, are established as follows:

(a) District 1: Unlimited cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

Dated: October 30, 1987.

Robert C. Keeney,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-25561 Filed 11-3-87; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1137

Milk in the Eastern Colorado Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues to suspend through February 1988 portions of the Eastern Colorado Federal Milk order that relate to the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still

be priced under the order. Also suspended for the same period is the "touch-base" requirement that each producer's milk be received at least three times each month at a pool distributing plant. Continued suspension of the provisions was requested by a cooperative association representing producers supplying the market in order to prevent uneconomic movements of milk.

EFFECTIVE DATE: November 4, 1987.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. 96456, Washington, DC 20090–6456, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued October 6, 1987; published October 9, 1987 (52 FR 37800).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This rule has been reviewed under Executive Order 12291 and Department Regulation 1512–1 and has been determined to be a "non-major" rule under the critieria contained therein.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and of the order regulating the handling of milk in the Eastern Colorado marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on October 9, 1987 (52 FR 37800) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon. No comments opposing the proposed suspension were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of October 1987 through February 1988 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In the first sentence of § 1137.12(a)(1), the words "from whom at least three deliveries of milk are received during the month at a distributing pool plant".

2. In the second sentence of § 1137.12(a)(1), the words "30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of" and "distributing".

Statement of Consideration

This action continues for the months of October 1987 through February 1988 suspension of the limit on the amount of producer milk that a cooperative association may divert from pool plants to nonpool plants, and the requirement that three deliveries of each producer's milk be received at a pool distributing plant each month. Earlier actions suspended these provisions for the months of September 1985 through September 1987.

The order provides that a cooperative may divert a quantity of milk not in excess of 30 percent of the cooperative association's member milk received at pool distributing plants in the months of March, April, May, June, July and December, and 20 percent in other months. The suspension allows up to 50 percent of a cooperative's member milk supply to be diverted to nonpool plants and remain eligible to share in the marketwide pool.

The continued suspension was requested by Mid-America Dairymen, Inc., (Mid-Am) a cooperative association of producers supplying the market. Mid-Am also requested the earlier suspensions. The cooperative association stated that the volume of producer milk pooled on the Eastern Colorado order began to increase following the conclusion of the Milk Diversion Program in 1985, and continued to increase during 1986. According to the cooperative, Eastern Colorado producer milk increased 12.7 percent over the previous year during 1985, and 5.8 percent from 1985 to 1986. Producer milk used in Class I increased only 1.8 percent from 1984 to 1985, and did not change from 1985 levels in 1986.

Although Eastern Colorado milk production decreased slightly during the first six months of 1987 due to the Dairy Termination Program, the cooperative stated that producer milk used in Class I is 2.0 percent below the same period in 1986. As a result, according to Mid-Am, there are ample supplies of locally produced milk to meet the fluid requirements of Eastern Colorado distributing plants.

Mid-Am stated that milk production produced in Kansas and Nebraska would have to be shipped to Eastern Colorado pool distributing plants each month in order to qualify Mid-Am producers for continued pool status. The cooperative stated that these shipments would displace Denver-area milk, which would have to be moved to surplus handing plants. Both movements, according to Mid-Am, would represent uneconomic movements of milk. Without the requested continued suspenion, the cooperative expects to incur substantial unnecessary costs for the movement of its milk solely for the purpose of pooling the milk of its members currently associated with the Eastern Colorado market.

No comments in opposition to the proposed action were received. Comments supporting the proposed action were filed by Western Dairymen Cooperative, Inc., a cooperative association representing most of the producers pooled under the order. Mid-Am also filed comments that supported the suspension.

Milk production is slightly above year-earlier levels, when suspenion of the same provisions was also necessary. Consequently, a greater proportion of the available milk supplies will have to be shipped to manufacturing plants for surplus uses than would be allowable under the order's diversion limits. Favorable weather conditions and ample feed supplies provide strong indications that the current production trends will continue, without offsetting increases in Class I use. In view of these circumstances, it is concluded that the suspension of the diversion limits and "touch-base" requirements of the Eastern Colorado milk order should be continued for the months of October 1987 through February 1988 to ensure the orderly marketing of milk supplies. The suspension will prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that thirty day's notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that without extensive unnecessary and expensive hauling and handling substantial quantities of milk from producers who regularly supply the market otherwise would be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or

extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No view in opposition to this action were received.

Therefore, good casue exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1137

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, that the following provisions of § 1137.12(a)(1) of the Eastern Colorado order are hereby suspended for the months of October 1987 through February 1988:

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

1. The authority citation for 7 CFR Part 1137 continues to read as follows:

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

§ 1137.12 [Amended]

2. In the first sentence of § 1137.12(a)(1), the words "from whom at least three deliveries of milk are received during the months at a distributing pool plant" are suspended.

3. In the second sentence of § 1137.12(a)(1), the words "30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of" and "distributing" are suspended.

Signed at Washington, DC, on: October 29, 1987.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 87–25494 Filed 11–3–87; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1951

Servicing of Community Program Loans To Charge a Transfer Fee

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) adopts the proposed rule which was published on May 27, 1987, (52 FR 19732). This action is being taken to include the establishment of a nonrefundable transfer fee for Community Program Loans, with payment at time of application submittal and to implement Public Law (Pub. L.) 97–258 in compliance with OMB Circulars A–25 and A–129, which require a fee to be charged when specialized benefits accrue to an individual rather than the general public. The intent of this regulation is to implement the authority granted to the Secretary in Pub. L. 97–258.

EFFECTIVE DATE: December 4, 1987.

FOR FURTHER INFORMATION CONTACT: Carolyn C. Palmer, Loan Officer, Community Facilities Division, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Agriculture Building, Washington, DC 20250; telephone (202) 382–1503.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–I which implements Executive Order 12291, and has been determined to be nonmajor since the annual effect on the economy is less than $100 million and there will be no significant increase in costs or prices for consumers; individual industries; organizations; governmental agencies, or geographic regions. There will be no 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. The net result is expected to offset administrative and contractual cost related to transfer of a Community Program loan.

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

This change affects the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

Sec.
10.414 Resource, Conservation, and Development Loans.
10.418 Water and Waste Disposal Systems for Rural Communities.
10.419 Watershed and Flood Prevention Loans.
10.422 Business and Industry Loans.
10.423 Community Facilities Loans.

and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR 3015, Subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985).

No comments were received on the proposed rule published May 27, 1987, (52 FR 101) which allowed for a 60 day comment period ending July 27, 1987.

Discussion

(1) Transfer Fee

FmHA is authorized to make direct loans for the purpose of financing water and waste disposal and other essential community facilities providing essential service primarily to rural residents. It is the policy of FmHA to approve transferees who will continue the original purpose of the loan. If an eligible transferee is not available, an ineligible transferee will be considered as a method for servicing problem cases. Legislation authorizing FmHA loan programs gives the Secretary of Agriculture authority to impose transfer fees (user fees). Pub. L. 97–258 authorizes the charging of user fees, including transfer fees, for all loan programs for specialized services. In addition, the Office of Management and Budget (OMB) Circulars A–129 and A–25 require that a fee be assessed where specialized benefits accrue to an individual rather than the general public.

Under this final rule, a transfer fee for the processing of a transfer and assumption will be imposed upon each ineligible transferee. This action established a nonrefundable fee based on the Agency's staffing and other administrative costs related to processing a transfer and assumption to an ineligible transferee. The fee is established at $650 plus the cost of an appraisal, if this service must be contracted out. The fee is to be reviewed annually and adjusted accordingly. This fee is paid by the proposed ineligible transferee when the transfer proposal is submitted.

(2) Transfer Fee Justification

The transfer fee is intended to pay for those services provided by FmHA when processing a transfer and assumption to an ineligible transferee in Community Programs. In some cases, the State Director may elect to use persons from outside the Agency on a service contract basis. Whether the State Director uses personnel from the Agency or outside contractors to carry out the processing (or a portion of the processing, i.e., appraisals) of the transfer, the fee will be paid at the time of submittal of the proposal and cannot be refunded. The additional fee for the appraisal will be collected as soon as a price is obtained.

Actual cost data for service contracts; i.e., appraisals, environmental assessments, etc., will be collected on all loans and an analysis will be made each year. Deviations of 10 percent between actual charges for contracting and our cost projections will result in a fee review and adjustments to the fee if FmHA determines it appropriate. The fee will be determined by the National Office and issued annually. Information regarding the fee can be obtained in any FmHA County, District, or State Office.

Based on estimated hours to complete the processing of a transfer and assumption to an ineligible transferee, salaries, and other administrative expenses, the current fee has been established as $650 plus the cost of an appraisal if this service is contracted. Estimated hours were taken from the FmHA Resource Management System. These estimates are current levels which are reviewed annually and modified as needed.

List of Subjects in 7 CFR Part 1951

Account servicing, Grant programs—Housing and community development, Loan programs—Housing and community development, Reporting requirements, Rural areas.

Accordingly, FmHA amends Chapter XVIII, Title 7, Code of Federal Regulations to read as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for Part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart E—Servicing of Community Program Loans and Grants

2. Section 1951.203 is amended by adding paragaph (f) to read as follows:

§ 1951.203 Definitions.

* * * * *

(f) *Transfer fee.* A one-time nonrefundable application fee, charged to ineligible applicants for FmHA services rendered in the processing of a transfer and assumption.

3. Section 1951.210 is amended by redesignating paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) as paragraphs (c)(2), (c)(3), (c)(4), and (c)(5), respectively; by redesignating paragraphs (d) introductory text and paragraphs (1) through (4), (d)(5), (d)(6), (e), and (f) as paragraphs (e) introductory text and paragraphs (1) through (4), (e)(6), (e)(7), (f), and (g), respectively; and by adding new paragraphs (c)(1), (d), and (e)(5) to read as follows:

§ 1951.210 Transfer of security and assumption of loans.

* * * * *

(c) * * *

(1) All transfers to ineligible applicants will include a one-time nonrefundable transfer fee. Transfer fees will be collected and payments applied in accordance with paragraph (d) of this section.

* * * * *

(d) *Transfer fees.* Transfer fees for Community Program borrowers are a one-time nonrefundable cost to be collected at the time of application or proposal. (Revised)

(1) *Amount.* Community Program transfer fees will be a standard fee plus the cost of the appraisal if completed by other than FmHA personnel. This fee will be established by the National Office and issued annually. Contract costs will be processed in accordance with FmHA Instruction 2024–P, Cost Payments.

(2) *Remittance.* This fee will be deposited into the Concentration Banking System. In those locations not participating in the Concentration Banking System, the fee will be submitted directly to the Finance Office. In either case, this fee will be identified as a transfer fee using Form FmHA 451–2, Schedule of Remittance. This fee will be credited to the Rural Development Insurance Fund and should be included on the Daily Activity Report.

(3) *Waiver.* When the State Director determines waiving the transfer fee is in the best interest of the Government, the file will be submitted to the National Office with appropriate recommendations for the request.

(e) * * *

(5) The transfer fee is to be waived for a prospective transferee.

* * * * *

4. In § 1951.210 newly redesignated paragraph (f)(13) is amended in the last sentence by changing the reference from "§ 1951.210(d)(6)" to "§ 1951.210(e)(7)."

§ 1951.211 [Amended]

5. Section 1951.211(c) introductory text is amended by changing the reference from "§ 1951.210(e) (1) through (14)" to "§ 1951.210(f) (1) through (14)."

Dated: October 14, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87–25558 Filed 11–3–87; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87–ANE–36]

Alteration of VOR Federal Airways; Massachusetts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the descriptions of all Federal airways in the Boston, MA, area affected by the relocation of the Boston very high frequency omni-directional radio range and tactical air navigational aid (VORTAC). The Boston VORTAC has been moved 1,025 feet northeast from its current location. This action is necessary to correct the alignment of all airways that have Boston in their descriptions.

DATES: Effective date—0901 U.T.C, January 14, 1988. Comments must be received on or before December 18, 1987.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, New England Region, Attention: Manager, Air Traffic Division, Docket No. 87–ANE–36, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves mandatory amending to the descriptions of all VOR airways that are affected by the relocation of the Boston VORTAC and was not preceded by notice and public procedure, comments are invited on the

rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.123 of the Federal Aviation Regulations (14 CFR Part 71) is to change the descriptions of V-3, V-292, V-431 and V-475 all of which were affected by the relocation of the Boston, MA, VORTAC, from its current location on Boston's Logan Airport, to coordinates lat. 42°21'26" N., long. 70°59'24" N., which is 1,025 feet northeast. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to amend the descriptions of V-3, V-292, V-431 and V-475 that were affected by the relocation of the Boston VORTAC. These amendments make only minor changes in the airways to reflect the small dislocation of the VORTAC from its former location. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because these actions are minor technical amendments in which the public would not be particularly interested.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

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

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

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

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-3 [Amended]

By removing the words "INT Boston 015° and Pease, NH, 185° radials;" and substituting the words "INT Boston 014° and Pease, NH, 185° radials;"

V-292 [Amended]

By removing the words "INT Gardner, MA, 097° and Boston, MA, 015° radials;" and substituting the words "INT Gardner, MA, 097° and Boston, MA, 014° radials;"

V-431 [Amended]

By removing the words "INT Boston 015° and Gardner, MA, 097° radials;" and by substituting the words "INT Boston 014° and Gardner, MA, 097° radials;"

V-475 [Amended]

By removing the words "INT Providence 013° and Boston, MA, 223° radials;" and substituting the words "INT Providence 013° and Boston, MA, 224° radials;"

Issued in Washington, D.C., on October 27, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-25485 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-AWA-18]

Alteration of VOR Federal Airways; Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects the description of Federal Airway V-374 as published in the **Federal Register** on October 23, 1987. The description of V-374 that was published terminated the airway at Madison, CT. However, the airway should have been terminated at Binghamton, NY. This action corrects that mistake.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

The final rule published in Docket 87-AWA-18 on October 23, 1987, amended the descriptions of V-374, V-405, V-419 and V-423. Inadvertently, the amended description of V-374 incorrectly showed V-374 terminating at Madison, CT. This action corrects the description to reflect a termination at Binghamton, NY.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, the final rule published on October 23, 1987, page 39622 in the **Federal Register** is corrected to read as follows:

PART 71—[AMENDED]

§ 571.123 [Corrected]

V-374 [Amended]

By removing the words "Madison." and by substituting the words "to Madison. From Carmel, NY; INT Carmel 254° and Deer Park, NY, 308° and Binghamton, NY, 119° radials; Binghamton."

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

Issued in Washington, DC, on October 27, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-25482 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 87-ANM-16]

Alteration of VOR Federal Airways and Jet Routes; Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: These amendments change the descriptions of several Federal Airways and Jet Routes located in the vicinity of Portland, OR. The Portland very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) is not located on the Portland Airport. According to FAA guidelines, navigational aids (NAVAID) not located within the confines of the airport boundaries should not retain that airport's name. Therefore, the Portland VORTAC has been renamed Battleground VORTAC. These actions amend the descriptions of all airways and jet routes where "Portland" appears to read "Battleground."

DATES: Effective date—0901 U.T.C., January 14, 1988. Comments must be received on or before December 18, 1987.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, Northwest Mountain Region, Attention: Manager, Air Traffic Division, Docket No. 87-ANM-16, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, WA 98168.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although these actions are in the form of a final rule, which involves amending the descriptions of all VOR Federal Airways and Jet Routes that currently have "Portland" in their descriptions to read "Battleground" and were not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of these amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) is to amend the descriptions of all VOR Federal Airways and Jet Routes to read "Battleground" where "Portland" appears. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6C dated January 2, 1987.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to amend the descriptions of all VOR Federal Airways and Jet Routes located in the vicinity of Portland, OR, that have "Portland" in their descriptions to read "Battleground." These actions do not make any change in the configuration of controlled airspace. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because these actions are minor technical amendments in which the public would not be particularly interested.

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

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, VOR Federal airways, Jet routes.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) are amended, as follows:

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

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

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-23, V-112, V-182, V-287, V-448, V-468, V-495, V-500, V-520 [Amended]

By removing "Portland" wherever it appears and substituting "Battleground".

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

3. The authority citation for Part 75 continues to read as follows:

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

§ 75.100 [Amended]

4. Section 75.100 is amended as follows:

J-1, J-15, J-16, J-67, J-82, J-136, J-159, J-189 [Amended]

By removing "Portland" wherever it appears and substituting "Battleground".

Issued in Washington, DC, on October 27, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-25483 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 87-AWA-5]

Alteration of Jet Routes; Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects the description of Jet Route J-152 as published in the **Federal Register** on September 23, 1987. The description of J-152 as published was not technically correct with respect to the route alignment around Harrisburg, PA.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 87-21850, which was published on September 23, 1987, altered the description of Jet Route J-152 located in the vicinity of Harrisburg, PA (52 FR 35694). The radial "099°" was inadvertently used in the description instead of the corrent radial of "102°." This action corrects the error to avoid confusion.

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, the final rule published on page 35694 in the **Federal Register** on September 23, 1987, is corrected to read as follows:

PART 75—[AMENDED]

§ 75.100 [Corrected]

J-152 [Amended]

By removing the words "Harrisburg, PA; to INT Harrisburg 102° and Westminster, MD, 058° radials." and substituting the words "to Harrisburg, PA."

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

Issued in Washington, DC, on October 26, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-25480 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 86-AWP-34]

Alteration of Jet Route J-6; California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action postpones the effective date of an amendment to Jet Route J-6 located in the vicinity of Palmdale, CA. The date of implementation for Jet Route J-6 has been postponed from November 19, 1987, to January 14, 1988. This action is taken for the purposes of internal administration and for coordination of this amendment with other related airspace actions on the west coast.

EFFECTIVE DATE: 0901 UTC, January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still , Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

A final rule Airspace Docket No. 86-AWP-34 published in the **Federal Register** on September 18, 1987 (52 FR 35235) with an effective date of November 19, 1987, implemented modifications to Jet Route J-6. However, due to internal administrative considerations, and in order to permit sufficient time for coordination of this amendment with other related airspace actions, the effective date has been changed to January 14, 1988.

Issued in Washington, DC, on October 26, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-25481 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 70504-7233]

Annual Survey of U.S. Direct Investment Abroad (BE-11)

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: These rules amend 15 CFR Part 806 by changing the reporting requirements for the BE-11, Annual Survey of U.S. Direct Investment Abroad, conducted by the Bureau of Economic Analysis, U.S. Department of Commerce, under authority of the International Investment and Trade in Services Survey Act. Specifically, the rules change the reporting requirements on Form BE-11C of the survey to: (1) Require filing of a complete BE-11C report for nonbank foreign affiliates owned at least 20 percent, but less than 25 percent, by the U.S. Reporter and for which total assets, sales, or net income exceed $10 million, and (2) *for fiscal year 1987 only,* require filing of a partial BE-11C report for nonbank foreign affiliates owned at least 10 percent, but less than 20 percent, by the U.S. Reporter and for which total assets, sales, or net income exceed $100 million. Previously, all foreign affiliates owned less than 25 percent were exempt from being reported in the BE-11 survey.

EFFECTIVE DATE: These rules will be effective December 4, 1987, commencing with the reports covering fiscal year 1987.

FOR FURTHER INFORMATION CONTACT: Betty L. Barker, Acting Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523-0659.

SUPPLEMENTARY INFORMATION: In the September 14, 1987 **Federal Register**, Volume 52, No. 177 (52 FR 34685), BEA published a notice of proposed

rulemaking to change the reporting requirements for the BE-11, Annual Survey of U.S. Direct Investment Abroad. No comments on the proposed rulemaking were received. Thus, the final rule changes are the same as the proposed rule changes.

The annual survey is a mandatory survey, conducted pursuant to the International Investment and Trade in Services Survey Act (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108, as amended by section 306 of Pub. L. 98-573). It provides annual time series on important aspects of the operations of U.S. multinational companies, including data on their services activities and international services transactions. The survey covers a sample of nonbank U.S. parent companies and their nonbank foreign affiliates; the sample data are used to generate universe estimates of data for parents and affiliates for years in which benchmark surveys, or censuses, of U.S. direct investment abroad are not conducted.

The BE-11 survey contains three forms—the BE-11A, which covers the U.S. Reporter: the BE-11B, which covers majority-owned foreign affiliates; and the BE-11C, which covers minority-owned foreign affiliates. This rule alters the reporting requirements for the BE-11C form.

Previously, on the BE-11 survey, reporting on form BE-11C was limited to those minority-owned nonbank foreign affiliates owned 25 percent or more, directly or indirectly, by the U.S. Reporter, but not more than 50 percent by all U.S. Reporters of the affiliate combined, and whose assets, sales, or net income exceeded $10 million. U.S. direct investment abroad, however, is defined to include all foreign business enterprises owned *10* (not 25) percent or more, directly or indirectly, by a U.S. person. These final rules alter the reporting requirements on the BE-11C to (1) require filing of a complete BE-11C report for nonbank affiliates owned at least 20 percent, but less than 25 percent, directly or indirectly, by the U.S. Reporter and for which any one of the exemption level items (i.e., total assets, sales or gross operating revenues, or net income) exceeds $10 million, positive or negative, and (2) *for fiscal year 1987 only,* require filing of a partial BE-11C report for nonbank affiliates owned at least 10 percent, but less than 20 percent, directly or indirectly, by the U.S. Reporter and for which any one of the three exemption level items exceeds $100 million, positive or negative. For the former affiliates, all seven data items on the form must be completed each year; for the latter, only three items—assets, sales, and net income—must be completed, and only for fiscal year 1987. The new rules are effective with the BE-11 survey covering 1987.

Collection of the information for 10-to-25 percent-owned affiliates on the BE-11C form will enable the Bureau to provide more reliable estimates for the universe of all foreign affiliates of U.S. companies.

Executive Order 12291

BEA has determined that this rule is not "major" as defined in E.O. 12291 because it is not likely to result in:

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

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

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

Paperwork Reduction Act

The collection of information requirement in this final rule has been approved by OMB (OMB No. 0608-0053).

Regulatory Flexibility Act

The General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant economic impact on a substantial number of small entities. The $10 million exemption level below which reporting of 20-to-25 percent-owned affiliates is not required on the BE-11C form, and the $100 million level below which reporting of 10-to-20 percent-owned affiliates is not required for fiscal year 1987, exclude small businesses from being reported.

List of Subjects in 15 CFR Part 806

Economic statistics, U.S. investment abroad, Penalties, Reporting and recordkeeping requirements.

Dated: October 14, 1987.

Allan H. Young,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, 15 CFR Part 806 is amended as follows:

PART 806—[AMENDED]

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101-3108, and E.O. 11961, as amended.

2. In § 806.14, paragraphs (f)(3)(iii) and (f)(3)(iv)(B) are revised; paragraphs (f)(3)(iv) (C) and (D) are redesignated (f)(3)(iv) (D) and (E), respectively; and new paragraphs (f)(3)(iv)(C) and (F)(3)(v) are added to read as follows:

§ 806.14 U.S. direct investment abroad.

* * * * *

(f) * * *

(3) * * *

(iii) A complete Form BE-11C (Report for Minority-owned Foreign Affiliate), including all seven data items on the form, must be filed for each minority-owned nonbank foreign affiliate that is owned at least 20 percent, directly or indirectly, by the U.S. Reporter but not more than 50 percent by all U.S. Reporters of the affiliate combined, and for which any *one* of the exemption level items exceeds $10 million. In addition, *for the report covering fiscal year 1987 only*, a partial BE-11C, including only three data items (that is, total assets, sales or gross operating revenues, and net income), must be filed for each minority-owned nonbank foreign affiliate that is owned at least 10 percent, but less than 20 percent, directly or indirectly, by the U.S. Reporter and for which *any* one of the exemption level items exceeds $100 million.

(iv) * * *

(B) *For fiscal year 1987 only*, it is less than 20 percent owned, directly or indirectly, by the U.S. person and none of its exemption level items exceeds $100 million.

(C) For fiscal years other than 1987, it is less than 20 percent owned, directly or indirectly, by the U.S. person.

* * * * *

(v) Notwithstanding the above, an affiliate holding an equity interest in another affiliate that must be reported on Form BE-11B or C must also be reported on Form BE-11B (if majority owned) or C (if minority owned), regardless of the value of its assets, sales, or net income. That is, all affiliates upward in the chain of ownership must be reported.

[FR Doc. 87-25528 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-06-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-25072, File No. S7-16-87]

Exemption of Certain Foreign Government Securities Under the Securities Exchange Act of 1934 for Purposes of Futures Trading

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission amends Rule 3a12-8 under the Securities Exchange Act of 1934 to designate government debt securities issued by Australia, France, and New Zealand as "exempted securities" for purposes of the marketing and trading in the United States of futures contracts on those securities. Rule 3a12-8 currently grants such an exemption to British, Canadian, and Japanese government debt securities underlying foreign futures contracts that meet certain conditions set forth in the Rule. The amendment will extend the exemption to government securities issued by Australia, France, and New Zealand, thereby removing such securities from those on which futures trading in prohibited by the Commodity Exchange Act. Trading the underlying securities, absent compliance with applicable registration and other requirements, will remain prohibited to the same extent as under current federal securities law.

EFFECTIVE DATE: November 4, 1987.

FOR FURTHER INFORMATION CONTACT: David L. Underhill, Esq., 202/272-2375, Division of Market Regulation, Securities and Exchange Commission, Room 5186 (Mail Stop 5-1), 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under the Commodity Exchange Act ("CEA"), futures trading on individual securities is prohibited unless the underlying security is an exempted security under the Securities Act of 1933 ("Securities Act") or the Securities Exchange Act of 1934 ("Exchange Act"). The Securities and Exchange Commission ("SEC" or "Commission") adopted and later amended Rule 3a12-8 ("Rule") under the Exchange Act to designate British, Canadian, and Japanese government debt obligations ("designated foreign government securities") as "exempted securities" under the Exchange Act solely for purposes of marketing and trading futures on those securities in the United States. In effect, the designation of those securities as exempted securities removes the CEA's prohibition against marketing and trading futures on those securities in the United States, so long as the other terms of the Rule are satisfied. The Commission today adopts an amendment to the Rule. The amendment adds the debt securities of Australia, France, and New Zealand to the list of designated foreign government securities exempted by the Rule. To qualify for the exemption, futures contracts on securities issued by Australia, France, and New Zealand will have to meet all the other existing requirements of the Rule.

II. Background

The CEA, as amended by the Futures Trading Act of 1982,[1] prohibits the trading of futures contracts on individual securities unless those securities qualify as exempted securities under section 3 of the Securities Act or section 3(a)(12) of the Exchange Act.[2] Because foreign government securities are not exempted securities under either of these sections, the CEA prohibition against trading futures on individual securities prevents the marketing and trading of futures on such foreign government securities in this country. Section 3(a)(12) of the Exchange Act, however, provides that the term "exempted security" includes

> Such other securities * * * as the Commission may, by such rules and regulations as it deems consistent with the public interest and the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an "exempted security" or to "exempted securities."

In March 1984, pursuant to section 3(a)(12) under the Exchange Act, the Commission promulgated Rule 3a12-8.[3] The Rule, as amended,[4] designates British, Canadian and Japanese government securities that meet certain conditions as "exempted securities" under the Exchange Act. The purpose of the Rule is to permit certain foreign, exchange-traded futures contracts on the designated foreign government securities to be marketed and traded in the United States.[5] Under the Rule, British, Canadian and Japanese government debt securities are considered exempted securities under the Exchange Act only with respect to futures trading on those securities and provided that: (1) The securities are not registered in the United States; (2) the futures contracts require delivery outside the United States; and (3) the futures contracts are traded on a board of trade.[6]

Rule 3a12-8 was promulgated in response to Congress' understanding, in approving the 1982 amendments to the CEA, that neither the SEC nor the Commodity Futures Trading Commission ("CFTC") had intended to bar British government bond futures [7] and that administrative action would be taken to allow the sale of these futures contracts in this country.[8] In promulgating the Rule, the Commission implemented Congress' intent without abandoning its longstanding policy of subjecting foreign government securities, for most purposes, to the requirements of the federal securities laws. Accordingly, the conditions set forth in the Rule are designed to ensure that a domestic market in unregistered foreign government securities does not develop and that futures markets in these instruments are not used to avoid the registration and other provisions of the federal securities laws.

At the time the Commission originally proposed Rule 3a12-8, it recognized that, should the securities of additional governments become subject to futures trading, it would become necessary to amend the Rule to include those

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[1] Pub. L. No. 97-444, 96 Stat. 2294, 7 U.S.C. 1 *et seq.* (1982)

[2] Section 2(a)(1)(B)(v) of the CEA, 7 U.S.C. 2a(v) (1984), provides that "[n]o person shall offer to enter into, enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under section 3 of the Securities Act * * * or section 3(a)(12) of the * * * Exchange Act * * *."

[3] *See* Securities Exchange Act Release Nos. 20708, March 2, 1984, 49 FR 8595 ("Adopting Release"), and 19811, May 25, 1983, 48 FR 24725 ("1983 Proposal Release").

[4] The Rule was amended last year to include Japanese government securities. Securities Exchange Act Release No. 23423, July 11, 1986, 51 FR 25996. As originally adopted, the Rule applied only to British and Canadian government securities. *See* Adopting Release, *supra* note 3.

[5] As discussed above, without this designation the trading of futures on these securities in the United States would be prohibited by section 2(a)(1)(B) of the CEA.

[6] A requirement that the board of trade be located in the country that issued the underlying debt security recently was eliminated. *See* Securities Exchange Act Release No. 24209, March 12, 1987, 52 FR 8875.

[7] *See* 1983 Proposal Release, *supra* note 3, 48 FR at 24725 [citing 128 Cong. Rec. H7492 (daily ed. September 23, 1982) (statements of Representatives Daschle and Wirth)].

[8] In extending the exemption to futures on Canadian government bonds and bills and then to futures on Japanese yen bonds, the Commission noted that there did not appear to be any legal or regulatory reason for treating them differently from British gilt futures.

securities.[9] Subsequently, the Commission amended the Rule to include Japanese government debt. Currently, the Sydney Futures Exchange ("SFE") is trading futures on Australian government bonds, the Marche a Terme d'Instruments Financiers ("MATIF")[10] is trading futures on French government bonds and bills and New Zealand government bond futures are being traded on the New Zealand Futures Exchange ("NZFE"). The Commission staff has been informed that United States citizens are interested in trading these new products and has received requests that Rule 3a12-8 be amended to allow such trading.[11] As a result, on May 5, 1987, the Commission issued a release ("1987 Proposal Release") proposing two alternative amendments to the Rule.[12] One amendment would add debt securities issued by Australia, France and New Zealand to the Rule's list of designated foreign government securities. The other amendment would add to the Rule's list of designated foreign government securities the unregistered debt obligations of any government with long-term, external sovereign debt outstanding which is rated in one of the two highest rating categories of at least two nationally recognized statistical rating organizations.

III. Discussion

Based on the comment letters received and for the additional reasons discussed below, the Commission has determined that Rule 3a12-8 should be amended to include the debt obligations of Australia, France and New Zealand. The Commission received nine comment letters in response to the 1987 Proposal Release.[13] Seven of the commentators responded to the Commission's request in the 1987 Proposal Release for comments on the desirability of adding debt securities issued by Australia, France and New Zealand to the Rule's list of designated foreign government securities. Each of these seven letters endorsed amending the Rule to add, at a minimum, Australia, France or New Zealand to the list of countries covered by the Rule.[14] Six commentators responded to the Commission's request for comments on the feasibility of a rating standard. Reaction to the rating standard proposal was mixed.[15]

The Commission also solicited comment in its 1987 Proposal Release on whether under either proposal the information available in English regarding newly-eligible futures contracts and underlying sovereign debt would be adequate to permit U.S. investors to make informed investment decisions. While this issue was not addressed specifically by any of the commentators, all of the petitioners that requested that Rule 3a12-8 be expanded to cover the debt securities of Australia, France and New Zealand noted in their petitions that United States investors should have sufficient access to information in English concerning the relevant futures markets and underlying debt instruments.[16]

Finally, the Commission solicited comment on whether there are any legal or policy reasons for determining that debt securities issued by Australia, France and New Zealand or any other country that would qualify under the generic rating standard should not be accorded the same treatment for purposes of futures trading in the United States as are British, Canadian and Japanese debt securities. Each of the two commentators that addressed this issue stated that there did not appear to be any valid legal or policy reasons for denying United States investors the ability to trade futures on debt issued by Australia, France or New Zealand.[17] Indeed, three commentators noted that the expansion of Rule 3a12-8 would represent a positive step forward in the trend toward globalization of the world's securities markets.[18]

The Commission agrees that there are no valid legal or policy reasons for denying United States investors the ability to trade futures on debt securities issued by Australia, France and New Zealand and that the availability of these new hedging vehicles will allow investors to take advantage of the growing globalization of the securities markets. Due in large part to this trend toward internationalization, U.S. investors should have ready access to information in English concerning the markets and government securities of Australia, France and New Zealand. It

[9] *See* 1983 Proposal Release, *supra* note 3, 48 FR at 24726-27

[10] The MATIF is a financial futures exchange established in Paris in February 1986.

[11] *See* letters from Philip McBride Johnson, Skadden, Arps, Slate, Meagher & Flom, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated August 20, 1986 (Australia) ("Petition I"), October 1, 1986 (New Zeland) ("Petition II"), and February 26, 1987 (France) ("Petition III"); and letter from Eugene W. Boehringer, Managing Director, First Boston Corporation, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated October 1, 1986 (France) ("Petition IV").

[12] *See* Securities Exchange Act Release No. 24428, May 5, 1987, 52 FR 18237.

[13] Letters were received from the following: Neil H. Sherman, First Vice President and Associate General Counsel, Shearson Lehman Brothers, dated June 4, 1987 ("Shearson Letter"); Stephen R. Greene, Vice President, First Boston, dated June 12, 1987 ("First Boston Letter"); J.A. Fraser, Minister (Economic), Embassy of Australia, dated June 15, 1987; Thomas R. Donovan, President, Chicago Board of Trade ("CBT"), dated June 15, 1987; Erkki Liikanen, Minister of Finance, and Kalevi Pykala, Acting Cabinet Counsellor, Ministry of Finance, Finland, dated June 15, 1987 ("Finland Letter"); Jorgen Wagner-Knudsen, General Manager, Morgan & Cie, dated June 15, 1987; Ross Tanner, Counsellor (Economic), New Zealand Embassy, dated June 15, 1987 ("New Zeland Letter"); Kurt D. Steele, Senior Vice President and General Counsel, Standard & Poor's Corp. ("S&P"), dated June 15, 1987 ("S&P Letter"); and Mats Ringborg, Embassy of Sweden, undated ("Sweden Letter"). The Sweden Letter addressed only the trading of futures on Swedish government securities.

[14] Australia and Morgan & Cie only addressed, and were in favor of adding, Australian and French debt securities respectively to those exempted by the Rule. Finland favored the adoption of a rating standard over the addition of Australia, France and New Zealand, because the rating standard would exempt the securities of a greater number of countries, while New Zealand, citing problems that could arise if a country's debt rating were to fall below the two highest rating categories, favored the specific addition of Australia, France and New Zealand. The CBT urged the Commission to amend the Rule to specifically include debt issued by all the countries that would qualify under the proposed rating standard, while Shearson suggested that the Commission adopt both amendments, so as to avoid the possibility that the government securities of Australia, France or New Zealand later would become "disqualified" under the rating standard. Finally, First Boston favored the rating standard over the specific addition of Australia, France and New Zealand, but suggested that the Commission consider exempting *all* sovereign debt for purposes of futures trading.

[15] In addition to the CBT, Finland, First Boston, New Zealand, and Shearson comments described at note 14, *supra*, S&P also addressed the rating standard proposal. While the commentators for the most part favored the addition of debt securities of as many countries as possible to the Rule's list of designated foreign government securities, they raised concerns as to the practicability of a rating standard. In general, these concerns related to the proper functioning of the Rule in the event that a government issuer's rating were to fall below the two highest rating categories and the validity of relying on rating standards as a measure of the depth and liquidity of the secondary market for the government issuer's securities.

[16] *See* Petition I, *supra* note 11, at 6; Petition II, *supra* note 11, at 6; Petition III, *supra* note 11, at 7; Petition IV, *supra* note 11, at 2.

In adopting Rule 3a12-8 the Commission decided not to require, as a condition to the exemption, that such information be available. *See* Adopting Release, *supra* note 3, 49 FR 8597-98. At the time Rule 3a12-8 was adopted both the United Kingdom and Canada had government debt issues registered in the United States. As a result, although those particular issues were not the subject of futures trading, United States investors had relevant disclosure materials concerning the issuers, i.e., the governments of Canada and the United Kingdom. The Japanese government, however, had not registered any securities in the United States when it was added to the Rule's list of eligible issuers. Of the new countries that would become eligible under the current proposal, only New Zealand currently has government debt securities registered in the U.S.

[17] *See* First Boston Letter, *supra* note 13, at 3; Shearson Letter, *supra* note 13, at 2.

[18] *See* Finland Letter, *supra* note 13, at 1; First Boston Letter, *supra* note 13, at 1; New Zealand Letter, *supra* note 13, at 1.

also is important to note that the existing conditions set forth in the Rule (*i.e.*, that the underlying securities not be registered in the U.S., that the futures contracts require delivery outside the U.S.,[19] and that the contracts be traded on a board of trade) will apply to futures contracts on debt securities issued by Australia, France and New Zealand. This should ensure that the federal securities laws will not be subverted by the marketing and trading of futures on additional government securities in this country.[20]

In light of the comments received and the fact that the Commission has received petitions on behalf of futures exchanges in Australia, France and New Zealand to add debt securities issued by those three countries to the Rule's list of designated foreign government securities, the Commission has determined that the best course is to proceed without delay to amend the Rule to include debt securities issued by Australia, France and New Zealand. Due to the varied comment the Commission received with respect to a proposed amendment to the Rule that would incorporate a generic rating standard and thus expand the Rule to cover the debt securities of countries in addition to Australia, France and New Zealand, the Commission is not taking any action on that proposed amendment. The Commission will continue to assess the feasibility of such an amendment or other alternatives in light of the comments received.

IV. Cost/Benefit Analysis

In connection with the 1987 Proposal Release, the Commission noted that there do not appear to be any costs associated with the amendment adopted today. The amendment is designed to protect U.S. investors by preventing unregistered Australian, French and New Zealand government bonds from entering the country and by requiring that futures on those bonds be traded on boards of trade. In addition, the amendment imposes no recordkeeping or compliance burden in itself and merely provides an exemption under the federal securities laws. The principal benefit associated with the amendment is that it will allow U.S. boards of trade and investors to trade a greater range of futures contracts on foreign government debt. The Commission received no comments on the costs and benefits of the amendment to Rule 3a12–8.

V. Regulatory Flexibility Act Certification

The Chairman of the Commission certified in connection with the 1987 Proposal Release that the amendment to Rule 3a12–8, if adopted, would not have a significant economic impact on a substantial number of small entities. The Commission received no comments on this certification.

VI. Effects on Competition and Other Findings

Section 23(a)(2) of the Exchange Act[21] requires the Commission, in adopting rules under the Exchange Act, to consider the competitive effects of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission has considered the amendment to Rule 3a12–8 in light of the standards cited in section 23(a)(2) and believes that adoption of the amendment will not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act. As stated above, the amendment is designed to assure the lawful availability in this country of Australian, French and New Zealand government debt futures that otherwise would not be permitted to be marketed under the terms of the CEA. The amendment thus serves to expand the range of financial products available in the United States and enhances competition in financial markets. Insofar as the Rule contains limitations, they are designed to promote the purposes of the Exchange Act by ensuring that futures trading on government securities of Australia, France and New Zealand is consistent with the goals and purposes of the federal securities laws by minimizing the impact of the Rule on securities trading and distribution in the United States.

The Commission finds, in accordance with the Administrative Procedure Act,[22] that the amendment to Rule 3a12–8 is exemptive in nature. Accordingly, the Commission has determined to make the foregoing action effective immediately upon publication in the **Federal Register.**

VII. Statutory Basis

The amendment to Rule 3a12–8 is being adopted pursuant to 15 U.S.C. 78a *et seq.*, particularly sections 3(a)(12), 15 U.S.C. 78c(a)(12) and 23(a), 15 U.S.C. 78w(a).

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

VIII. Text of the Adopted Amendment

The Commission is amending Part 240 of Chapter II, Title 17 of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 is amended by adding the following citation:

Authority: Sec. 23, 48 Stat. 901, as amended; 5 U.S.C. 78w. * * * § 240.3a12–8 also issued under 15 U.S.C. 78a *et seq.*, particularly secs. 3(a)(12), 15 U.S.C. 78c(a)(12), and 23(a), 15 U.S.C. 78w(a).

2. Section 240.3a12–8 is amended by removing the word "or" from (a)(1)(ii), removing the period and adding a semicolon to (a)(1)(iii), and adding paragraphs (a)(1) (iv) through (vi) as follows:

[19] The Commission notes that the Australian government bond futures traded on the SFE and the New Zealand government bond futures traded on the NZFE are settled by the delivery of cash, rather than by delivery of the underlying sovereign debt securities. Petition I, *supra* note 11, at 2; Petition II, *supra* note 11, at 2. The proposed domestic trading and marketing of these contracts, which would be the first cash-settled futures to qualify for the exemption afforded by Rule 3a12–8, raises the issue of whether a cash-settled product would satisfy the Rule's delivery requirement. The CFTC also has raised this issue, and suggested that cash settlement would be consistent with the Rule. *See* letters from Virginia F. Crisman, Deputy General Counsel, CFTC, to David Underhill, Attorney, Division of Market Regulation, SEC, dated April 13 and April 16, 1987. The Commission agrees that cash settlement would be consistent with the Rule's requirement that delivery occur outside the U.S. In originally adopting the Rule, the Commission stated that requiring delivery of the underlying, unregistered securities outside the U.S. was designed to "inhibit the development of domestic trading in these unregistered securities." *See* Adopting Release, *supra* note 3, 49 FR at 8598. This concern does not arise in connection with cash settlement, as there is no security required to be delivered. Accordingly, the Commission will not object to the domestic trading and marketing of foreign futures that are cash-settled (whether cash settlement occurs abroad or in the U.S.), assuming the futures satisfy all the Rule's other requirements.

[20] The marketing and trading of foreign futures contracts also is subject to regulation by the CFTC. In particular, Section 4b of the CEA authorizes the CFTC to regulate the offer and sale of foreign futures contracts to U.S. residents, while Rule 30.02 (17 CFR 30.02), promulgated under section 2(a)(1)(A) of the CEA, is intended to prohibit fraud in connection with the offer and sale of futures contracts executed on foreign exchanges. In addition, the CFTC recently adopted a series of regulations governing the domestic offer and sale of futures and options contracts traded on foreign boards of trade. The rules, which become effective on January 4, 1988, require, among other things, that the domestic offer and sale of foreign futures be effected through CFTC registrants or comparably regulated entities under a regulatory framework similar to that governing domestic futures contracts. *See* 52 FR 28980 (August 5, 1987).

[21] 15 U.S.C. 78w(a)(2) (1982).

[22] 15 U.S.C. 553 (1982).

§ 240.3a12-8 Exemption for designated foreign government securities for purposes of futures trading

(a) * * *

(1) * * *

(iv) Australia;

(v) France; or

(vi) New Zealand.

* * * * *

By the Commission.

Dated: October 29, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25506 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Parts 270 and 274

[Release No. IC-16093; File No. S7-22-86]

Exemption From the Investment Company Act of 1940 for the Offer or Sale of Debt Securities and Non-Voting Preferred Stock by Foreign Banks or Foreign Bank Finance Subsidiaries

AGENCY: Securities and Exchange Commission.

ACTION: Final rule and form.

SUMMARY: The Commission today announced the adoption of rule 6c-9 and a related form under the Investment Company Act of 1940. A foreign bank or the bank's finance subsidiary may rely on the rule to offer or sell its own debt securities or non-voting preferred stock in the United States without registering as an investment company, provided that certain conditions are met. In this connection, the rule eliminates the need for such an entity to obtain an exemptive order.

EFFECTIVE DATE: December 4, 1987.

FOR FURTHER INFORMATION CONTACT: Brian M. Kaplowitz, Chief, (202) 272-2048, or Ann M. Glickman, Special Counsel, (202) 272-3042, Office of Regulatory Policy, Division of Investment Management, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is adopting rule 6c-9 under the Investment Company Act of 1940 (the "Act"), which will permit a foreign bank or the bank's finance subsidiary to offer or sell its own debt securities or non-voting preferred stock in the United States. The rule would be available to any such entity that might otherwise apply for an order under section 6(c) of the Act [15 U.S.C. 80a-6(c)] granting an exemption from all provisions of the Act.[1]

The Commission is also adopting a new form, form N-6C9, which is to be filed with the Commission by foreign entities relying on the rule and, in the case of finance subsidiaries, by their parent companies. The filing of the form will appoint an agent for service of process in the United States.

The Commission proposed rule 6c-9 and form N-6C9 in Investment Company Act Release No. 15314 (September 17, 1986) [51 FR 34221] (the "Proposing Release"). The Commission received several letters of comment in response to the proposals. The rule and form, as adopted, have been modified in some respects to address commentators' concerns.

The background and substance of the proposals are discussed fully in the Proposing Release. This release will, therefore, discuss only briefly the status of foreign banks and their finance subsidiaries under the Act and summarize the proposals. Thereafter, the release will discuss the comments received and describe the provisions of rule 6c-9 and form N-6C9 in their final form.

Background

A. Status of Foreign Banks Under the Act

A bank may be considered an investment company to the extent that it is involved in owning, holding, trading, investing or reinvesting in securities.[2] Institutions that are banks within the definition in section 2(a)(5) of the Act[3] are expressly excepted from the definition of investment company by section 3(c)(3) of the Act [15 U.S.C. 80a-3(c)(3)]. In addition, some foreign banks have been granted exemptions under section 6(c) of the Act permitting them to sell their own equity[4] and debt securities in the United States.[5]

B. Status of Foreign Bank Finance Subsidiaries Under the Act

Foreign banks often form wholly-owned United States subsidiaries to assist them in raising capital. Such a subsidiary sells its own securities and then loans the offering proceeds to the bank or to a company controlled by the bank. As consideration for these loans, the subsidiary receives evidences of indebtedness, such as promissory notes, from the parent or controlled company. The evidences of indebtedness may be considered investment securities under the Act,[6] and if those securities amount to more than 40% of its total assets, the finance subsidiary is considered an investment company under section 3(a)(3) of the Act, unless excepted or exempted by some other section.[7]

A foreign bank finance subsidiary that comes within the definition of investment company must, before offering or selling its own securities in the United States, either register as such with the Commission or apply for an order under section 6(c) for an exemption from the Act. Consequently, many finance subsidiaries have requested and received exemptive orders.[8]

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[1] Section 6(c) provides that the Commission may, by rules and regulations upon its own motion, or by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class of persons, securities, or transactions, from any provision or provisions of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and the provisions of the Act.

[2] "Investment company" is defined in section 3(a)(1) of the Act [15 U.S.C. 80a-3(a)(1)] as any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily in the business of investing, reinvesting, or trading in securities.

"Investment company" is defined in section 3(a)(3) of the Act [15 U.S.C. 80a-3(a)(3)] as any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40% of the value of the issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

"Investment securities" are defined in section 3(a)(3) to include all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which are not investment companies.

[3] "Bank" is defined in section 2(a)(5) of the Act [15 U.S.C. 80a-2(a)(5)] to include (A) a banking institution organized under the laws of the United States, (B) a member bank of the Federal Reserve System, or (C) any other banking institution or trust company, whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency, and which is supervised and examined by State or Federal authority having supervision over banks, and which is not operated for the purpose of evading the provisions of the Act.

[4] *See infra* at note 18.

[5] *See* Proposing Release at note 9 and accompanying text.

[6] Section 2(a)(36) of the Act [15 U.S.C. 80a-2(a)(36)] defines "security" to include, *inter alia*, any note or evidence of indebtedness. Such an instrument would be considered an "investment security" under section 3(a)(3). *See supra* note. 2.

[7] *See supra* note 2. Rule 3a-5 [17 CFR 270.3a-5] exempts from the definition of investment company the finance subsidiaries of parent companies that are not investment companies under section 3(a) of the Act or that have been excepted or exempted from that definition by Commission order by section 3(b) or by the rules and regulations under section 3(a). Rule 3a-5 is not available to the finance subsidiaries of foreign banks, however, because foreign banks are considered investment companies under the Act and are traditionally exempted by order under section 6(c).

[8] *See* Proposing Release at notes 18 and 19, and accompanying text.

Because of the frequency and routine nature of the applications received from foreign banks and their finance subsidiaries under section 6(c) of the Act, the Commission deemed it appropriate to propose rule 6c-9 to permit such entities to sell their own debt securities and non-voting preferred stock in the United States without registration under the Act.

The Proposed Rule

The principal provisions of proposed rule 6c-9 would have served to (1) define the type of entity to which the rule would apply; (2) limit the type of securities which could be offered in reliance upon the rule; and (3) impose certain conditions as to the offering to be made. In this regard, the proposal was intended to codify, with certain exceptions, the exemptions granted by the Commission to foreign banks and their subsidiaries under section 6(c). The proposed rule would also have been conditioned on the appointment of an agent for service of process by use of a proposed accompanying form.

A. Type of Issuer

1. Definition of the Term "foreign bank"

Proposed rule 6c-9 was designed to exempt from the Act any foreign bank or finance subsidiary of a foreign bank. The proposal defined "foreign bank" as a banking institution incorporated or organized under the laws of a country other than the United States and that is regulated as a bank by that country's government or an agency thereof. The definition also required that the bank be primarily engaged in commercial banking activities, which, in turn, were defined as accepting demand deposits and making commercial loans.

2. Definition of the Term "finance subsidiary of a foreign bank"

The proposed rule defined a "finance subsidiary of a foreign bank" as a subsidiary meeting the conditions of paragraph (a) of rule 3a-5 under the Act.[9] Thus, the subsidiary had to be a wholly-owned subsidiary of its parent bank and the securities being offered or sold in the United States were required to be unconditionally guaranteed by that bank. In addition, the subsidiary was required to comply with the other conditions of rule 3a-5, which are intended to ensure that a finance subsidiary's primary purpose is to act as a conduit for its parent, rather than to engage in investment company activities.

Although rule 3a-5 permits a finance subsidiary relying on that rule, or a "company controlled by the parent company" of such a subsidiary (a permissible recipient of the offering proceeds), to be owned by multiple parents in partnership or as a joint venture, proposed rule 6c-9 limited ownership of foreign bank subsidiaries and companies controlled by a foreign bank to a single parent. The proposal was so limited because there was no indication (such as a prior section 6(c) application) of any need to furnish an exemption for debt offerings made by a finance subsidiary owned by more than one foreign bank, or the proceeds of which would be remitted to a company controlled by more than one foreign bank. The Proposing Release, however, solicited comment on this issue.

B. Type of Security

The proposed rule would have provided an exemption for the sale of foreign banks' and finance subsidiaries' own debt and non-voting preferred stock. Non-voting preferred stock was included in the rule because it has many of the characteristics of debt instruments. In addition, the proposed rule was intended to apply only to offerings of securities issued by a bank or finance subsidiary, not to securities representing interests in a collective trust fund or similar investment pool maintained by a foreign bank.

The proposed rule did not include offerings of equity securities other than non-voting preferred stock because of the Commission's limited experience in reviewing exemptive applications for such offerings. However, the Proposing Release specifically requested comment on the conditions which should apply to equity offerings if the proposed rule were amended, or a new rule adopted, to provide an exemption for such offerings.

C. Conditions of the Offering

Under the proposed rule, registration under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] (the "Securities Act") of the securities that a foreign bank or a foreign bank finance subsidiary intended to sell in the United States would have entitled the bank or subsidiary to an exemption from registration as an investment company. However, if the foreign bank or subsidiary did not register its securities under the Securities Act in reliance on an available exemption from those registration requirements, the proposed rule would have exempted the bank or subsidiary from registration under the Act only if the securities were of high quality. "High quality" was defined as one of the two highest ratings that may be assigned by a nationally recognized statistical rating organization ("NRSRO"). Moreover, the high quality rating had to be obtained from at least two NRSROs that were not affiliated persons, as defined in section 2(a)(3)(C) of the Act [15 U.S.C. 80a-2(a)(3)(C)], of the issuer of, or of any insurer, guarantor or provider of credit support for, the securities.[10]

D. Appointment of Agent

Under the proposed rule, any foreign bank intending to offer or sell its securities in the United States would have had to file proposed form N-6C9 with the Commission appointing an agent located in the United States for service of process, for as long as the bank had any such securities outstanding. The rule also would have required the bank to file an amended form in the event that the bank appointed a successor agent. Where a foreign bank's finance subsidiary, incorporated or organized under the laws of a jurisdiction other than the United States or any State, was the issuer of the securities, the subsidiary would also have been required to file the form and keep it current. The purpose of this requirement was to ensure that the Commission or a private plaintiff would be able to serve the defendant with notice of a proceeding. However, the Proposing Release specifically requested comment on whether this purpose could be achieved by some other means.

Discussion of Comments and Changes to Rule

Generally, commentators responded favorably to the proposed rule. A number of the commentators, however, had specific suggestions for modification of the rule. Their comments are discussed below.[11]

A Type of Issuer

1. Definition of the Term "foreign bank"

Most of the commentators criticized the definition of the term "foreign bank" as so narrow that it would render the proposed rule inapplicable to many

[9] *See* also the discussion of rule 3a-5 *supra* at note 7

[10] Section 2(a)(3)(C) of the Act defines affiliated person to include a person directly or indirectly controlling, controlled by or under common control with another person. Control is defined in section 2(a)(9) of the Act [15 U.S.C. 80a-2(a)(9)] as the power to exercise a controlling influence over the management or policies of a company, unless that power arises solely as a result of an official position with that company. Direct or indirect ownership of more than 25% of the voting securities of a company carries a presumption of control over that company.

[11] The letters of comment are publicly available in Commission File No. S7-22-86.

entities legitimately seeking an exemption from the registration provisions of the Act. While the commentators' criticisms varied, and there was no consensus on any particular revision to the definition, the provision of the proposed rule which appeared to create the most difficulty was the requirement that the entity seeking an exemption be *primarily* engaged in commercial banking activity—that is, *primarily* engaged in accepting demand deposits and making commercial loans (emphasis supplied).

The Commission has decided to revise the definition so that it imposes no requirements as to the primary activities engaged in by the entity seeking to use the rule. Nonetheless, the revised definition includes the condition that the entity make commercial loans and accept demand deposits. Specifically, the rule, as adopted, requires the entity to be engaged regularly in, and to derive a substantial portion of its business from, extending commercial and substantial portion of its business from, extending commercial and other types of credit, and accepting demand and other types of deposits, that are customary in the entity's home country.[12] In view of the expanded scope of the new definition, the Commission has deemed it appropriate to add language to rule 6c-9 to ensure that the entity seeking to use the rule is not operated for the purpose of evading the provisions of the Act.[13] This requirement is based on a similar requirement contained in the Act's definition of the term "bank."[14]

The revised definition was drawn from a commentator's suggestion, and the Commission believes that this definition adequately addresses the concerns of the commentators. At the same time, the Commission is not adopting a broader definition suggested by several other commentators. That definition was patterned after the definition of "bank" as used in the International Banking Act of 1978 [12 U.S.C. 3101(7)] ("IBA"), and would basically include any company organized outside of the United States that engages in the business of banking as is usual in the company's home country.[15] Such a definition might bring within the scope of the rule entities that would not be viewed as banks under the Act if those entities were organized under the laws of the United States or of a State. The Commission is reluctant to extend the rule that far. Of course, entities which do not meet the conditions of the rule's definition may seek to use the exemptive application process.

2. Definition of the Term "finance subsidiary" and Related definitions

The proposed rule's use of paragraph (a) of rule 3a-5 under the Act in defining the term "finance subsidiary of a foreign bank" led to several objections on the part of the commentators.[16] Some comentators found too restrictive subparagraph (a)(5) of rule 3a-5, which requires a finance subsidiary to invest in or loan to its parent company or a company controlled by its parent company at least 85 percent of the proceeds of any offering of the subsidiary's debt or non-voting preferred stock as soon as practicable, but in any event within six months after the subsidiary's receipt of the proceeds. They urged that a broader range of investments be permitted, and that the rule be modified to permit the extension of credit to unrelated parties. However, as the Proposing Release pointed out, a finance subsidiary is required to comply with the conditions of rule 3a-5 to ensure that its primary purpose is to act as a conduit for its parent, rather than to engage in investment company activities. Permitting a broader range of investments or loans might result in the finance subsidiary operating much like an investment company, making an exemption inappropriate.

Commentators also had difficulty with the conditions imposed by subparagraph (a)(1) of rule 3a-5, which requires that any debt securities of the finance subsidiary issued to or held by the public be unconditionally guaranteed by the parent company as to the payment of principal, interest and premium, if any. These commentators argued that arrangements which are economically equivalent to guarantees should be permitted in the rule. While we recognize that other arrangements may provide protection equivalent to that of a guarantee, such alternative arrangements—for example, income maintenance, credit support and throughput and deficiency agreements—can best be evaluated at this time on a case-by-case basis through requests for exemptive orders or no-action advice.[17] Therefore, the Commission is retaining the guarantee requirement.

One commentator raised objection to the proposed rule's definition of the term "company controlled by a parent company" (subparagraph (c)(3) of the proposal). The proposed rule required that the controlled company not be considered an investment company under section 3(a) of the Act, or that it be excepted or exempted by order by section 3(b) or by the rules or regulations under section 3(a), unless the entity was itself a foreign bank. The commentator suggested that the definition be expanded to include a company qualifying for an exemption from the definition of investment company pursuant to section 3(c) of the Act. The difficulty with this suggestion, however, is that a company excepted under section 3(c) could be engaged in or could intend to engage in investment company-type activities. Therefore, the Commission would prefer to consider these situations on a case-by-case basis in the context of the exemptive application process.

In response to the Commission's specific request for comment, one commentator suggested that the rule should be extended to permit ownership by multiple bank parents of a finance subsidiary or of the ultimate recipient of the offering proceeds. However, this commentator acknowledged that joint ventures involving multiple foreign bank parents have been formed only rarely in the past. Since the Commission has received no applications from any finance subsidiaries of multiple parents, such an extension of the rule is unnecessary at this time.

B. Type of Security

Several of the commentators specifically suggested the inclusion of equity offerings in the proposed rule or the adoption of a rule relating to equity offerings in the near future. However, there was no general agreement on the conditions which should apply to such offerings, and one commentator urged that the Commission delay adopting a rule pending the development of "more appropriate standards" through the exemptive application process. Although

[12] *See* subparagraph (b) (3) of the rule's text.

[13] *See* text of rule 6c-9(b)(2)(iii).

[14] *See supra* note 3.

[15] Under the IBA: "Foreign bank" means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, which engages in the business of banking. The term "foreign bank" includes, without limitation, foreign commercial banks, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating.

[16] Subparagraph (b)(1) of the proposed rule.

[17] In the case of finance subsidiaries which were unable to use rule 3a-5 because their debt securities are not unconditionally guaranteed by their parent corporations, the Commission has considered exemptive applications involving alternative arrangements and issued orders. *See, e.g.*, notice of application and order for PacTel Capital Resources, Investment Company Act Release Nos. 14964 (February 28, 1986) [51 FR 7867] and 15014 (March 25, 1986.)

the Commission has received some new requests for exemptive orders involving the issuance of equity securities, it is not yet in a position to propose a general rule relating to equity offerings.[18] However, the staff of the Division of Investment Management will monitor this situation with a view to recommending that the Commission propose such a rule when it becomes appropriate.[19]

In the Proposing Release, it was noted that the exemption which would be provided by proposed rule 6c-9 was intended to apply only to the offering of securities issued by a foreign bank or its finance subsidiary, and not to securities representing interests in a collective trust fund or similar investment pool maintained by the bank.[20] In order to avoid confusion, the Commission has decided to make this intention clear by adding to the final rule a requirement that debt securities be direct obligations of, and non-voting preferred stock a direct interest in, the issuer.[21]

C. Conditions of the Offering

Most of the commentators argued that the proposed rule's requirement that an offering not registered under the Securities Act receive "high quality" ratings from two unaffiliated NRSROs, was too restrictive. The letters suggested several alternatives to the requirement. Some commentators urged that standards be adopted reflecting representations commonly found in foreign banks' and finance subsidiaries' exemptive applications under section 6(c). Under these standards, only one rating would be required, and the rating would have to be in one of the top three categories maintained by a NRSRO (instead of the top two categories prescribed by the proposed rule's definition of the term "high quality"). Some of the commentators suggested eliminating the rating requirement altogether, or at least in the case of offerings made in reliance on the exemption from Securities Act registration provided by section 4(2) of that Act (private offerings).[22]

The Commission has decided to eliminate the rating requirement from the final rule. As was noted in the Proposing Release, offerings registered under the Securities Act must comply with comprehensive disclosure requirements. Following exemptive orders granted under section 6(c), unregistered offerings have been made in reliance upon the exemptions provided by Securities Act sections 3(a)(3) (commercial paper) and (4)(2). In the case of offerings exempt under section 3(a)(3), Commission interpretations have required that the securities be of a type not ordinarily purchased by the general public.[23] As was pointed out by one commentator, foreign bank commercial paper is not normally marketable in the United States commercial paper markets without one of the two highest ratings from a NRSRO. Therefore, with respect to commercial paper, it is unnecessary to have a rating requirement included in the rule. Similarly, foreign bank securities sold in this country in reliance on section 4(2) are sold to investors who are knowledgeable with respect to financial matters and capable of evaluating the merits and risks of an investment. Such investors would not need the additional protection that a rating requirement would provide. Therefore, the final rule requires simply that the securities being sold must be registered under the Securities Act or be offered and sold pursuant to an exemption from the Securities Act's registration requirements.

D. Appointment of Agent

Several of the commentators criticized the proposed rule's condition requiring a foreign bank or foreign finance subsidiary to file form N-6C9 appointing an agent located in the United States for service of process. It was argued that the appointment of an agent, without the filing of any sort of document, is sufficient to fulfill the Commission's objective of ensuring that a plaintiff could serve a foreign defendant with notice of a proceeding. It was also pointed out that the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters makes possible the service by mail of judicial documents in many countries.

The Commission has decided to retain the form as a condition to reliance on the final rule. Although an agent may be appointed effectively without a filing with the Commission, the filing provides in an easily accessible location the name of the agent for service of process so that litigation may be commenced expeditiously. Similarly, although documents may be served by mail in most foreign countries, it is more convenient for a plaintiff to have the option of service within the United States.

One commentator raised a concern about paragraph 5 of proposed form N-6C9, which states that the filer consents that an action against the filer may be commenced by the service of process upon the filer's agent and the forwarding by the agent of a copy thereof by registered mail to the filer. The commentator raised a concern as to whether this procedure would put the agent for service in control of whether service is effective. In view of this ambiguity, the Commission has modified the language in the final version of the form.

Cost Benefit Of Action

To evaluate the benefits and costs associated with the proposed rule, the Commission specifically requested commentators to provide views and data as to the costs and benefits associated with the proposal. As was noted above, one commentator provided a negative assessment as to the impact of the NRSRO rating requirement, which has been eliminated in the final rule. As stated in the Proposing Release, proposed rule 6c-9 and form N-6C9 would not impose any significant additional burdens on foreign banks or foreign bank finance subsidiaries, and would significantly reduce the costs that they already incur by eliminating the need to file exemptive applications. The Commission would also benefit because its staff would no longer have to review exemptive applications in this area.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act [5 U.S.C. 605(b)], the Chairman of the Commission certified at the time the rule proposals were published that proposed rule 6c-9 and form N-6C9 would not, if adopted, have a significant impact on a substantial number of small entities. No comments were received regarding the certification.

[18] *See, e.g.*, notices of applications and orders for Banco de Santander, S.A. de C., Investment Company Act Release Nos. 15664 (April 3, 1987) [52 FR 11893] and 15713 (April 30, 1987); and Compagnie Financiere de Paribas, Investment Company Act Release Nos. 15835 (June 30, 1987) [52 FR 25510] and 15982 (July 23, 1987).

[19] Certain of the commentators also proposed to include voting preferred stock and stock issued pursuant to employee stock purchase plans in the rule. However, as the Commission has received no exemptive applications in these categories, it does not believe that it is necessary or appropriate to include such securities at this time.

[20] *See* Proposing Release, at note 28.

[21] *See* subparagraph (a)(2) of the rule text.

[22] In response to the Commission's specific request for comment on the costs and benefits associated with the proposed rule, one commentator noted that the cost and effort of obtaining a second NRSRO rating might outweigh the benefit derived from eliminating the necessity to file an exemptive application. The commentator did not, however, provide specific figures to illustrate this point.

[23] *See, e.g.*, Securities Act Release No. 4412 (September 20, 1961) [26 FR 9158].

List of Subjects in 17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rule and Form

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended as shown.

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

1. The authority citation for Part 270 is amended by adding the following citations:

Authority: Secs. 38, 40, 54 Stat. 841, 842; 15 U.S.C. 80a-37, 80c-89; The Investment Company Act of 1940, as amended, 15 U.S.C. 80a-1 *et seq.*; unless otherwise noted. * * * § 270.6c-9 is also issued under Secs. 6(c) [15 U.S.C. 80a-6(c)] and 38(a) [15 U.S.C. 80a-37(a)].

2. By adding § 270.6c-9 to read as follows:

§ 270.6c-9 Exemption for the offer or sale of debt securities and non-voting preferred stock in the United States by foreign banks and subsidiaries organized to finance the operations of foreign banks.

(a) A foreign bank or a finance subsidiary of a foreign bank may offer or sell its own debt securities or non-voting preferred stock by the use of the mails or any means or instrumentality of interstate commerce ("offer or sale") without registering as an investment company; *Provided* that:

(1) The debt securities or non-voting preferred stock are registered under the Securities Act of 1933, or offered or sold pursuant to an exemption from the registration requirements thereof;

(2) Any debt securities issued will be direct obligations of the issuer and any non-voting preferred stock issued will be a direct interest in the issuer; and

(3) Form N-6C9 [17 CFR 274.304] and any required amendments thereto shall have been filed with the Commission by:

(i) The foreign bank offering or selling debt securities or non-voting preferred stock in the United States;

(ii) The finance subsidiary of a foreign bank offering or selling debt securities or non-voting preferred stock in the United States, if such finance subsidiary is organized under the laws of a jurisdiction other than the United States or any State; and

(iii) The foreign bank parent unconditionally guaranteeing the payment of principal, interest, and premium on the debt securities, or the payments of dividends, liquidation preferences, and sinking fund payments on the non-voting preferred stock, offered or sold by its finance subsidiary in the United States.

(b) For purposes of this rule:

(1) "Finance subsidiary of a foreign bank" means a foreign bank subsidiary meeting the requirements of paragraph (a) of rule 3a-5 [17 CFR 270.3a-5].

(2) "Foreign bank" means a banking institution incorporated or organized under the laws of a country other than the United States that is:

(i) Regulated as such by that country's government or any agency thereof;

(ii) Engaged substantially in commercial banking activity; and

(iii) Not operated for the purpose of evading the provisions of the Act.

(3) "Engaged substantially in commercial banking activity" means engaged regularly in, and deriving a substantial portion of its business from, extending commercial and other types of credit, and accepting demand and other types of deposits, that are customary for commercial banks in the country in which the head office of the banking institution is located.

(c) For purposes of determining whether a foreign bank subsidiary meets the requirements of paragraph (a) of rule 3a-5:

(1) "Finance subsidiary" means any corporation:

(i) Whose parent company owns all of its securities other than directors' qualifying shares or debt securities or nonvoting preferred stock meeting the applicable requirements of paragraphs (a) (1) through (a) (3) of rule 3a-5; and

(ii) The primary purpose of which is to finance the business operations of its parent company or companies controlled by its parent company.

(2) "Parent company" means a foreign bank.

(3) "Company controlled by a parent company" means any corporation:

(i) That is either a foreign bank or is not consolidated an investment company under section 3(a) or that is excepted or exempted by order from the definition of investment company by section 3(b) or the rules or regulations under section 3(a); and

(ii) All of whose securities other than directors' qualifying shares or debt securities or non-voting preferred stock are owned by a foreign bank.

Subpart D of Part 274 of Chapter II of Title 17 of the Code of Federal Regulations is amended as shown:

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

3. The authority citation for Part 274 is amended by adding the following citations:

Authority: Secs. 6(c), 15 U.S.C. 80a-6(c), 6(e), 15 U.S.C. 80a-6(e); 38(a), 15 U.S.C. 80-37(a) of the Act. * * * § 274.304 is also issued under Secs. 6(c) [15 U.S.C. 80a-6(c)] and 38(a) [15 U.S.C. 80a-37(a)].

4. By adding § 274.304 to read as follows:

§ 274.304 Form N-6C9, appointment of agent for service of process by foreign banks and their finance subsidiaries offering or selling debt securities or non-voting preferred stock in the United States under rule 6c-9 under the Investment Company Act of 1940.

(a) Form N-6C9 shall be filed by an foreign bank relying on rule 6c-9 (§ 270.6c-9 of this chapter) to offer or sell its debt securities or non-voting preferred stock in the United States directly or through a finance subsidiary. Where the finance subsidiary is incorporated or organized under the laws of a jurisdiction other than the United States or any State, the subsidiary must also file the form.

(b) Form N-6C9 shall be filed in duplicate original.

By the Commission.

Jonathan G. Katz,

Secretary.

October 29, 1987.

Note: The following form will not appear in the Code of Federal Regulations.

BILLING CODE 8010-01-M

FORM N-6C9

U.S. Securities and Exchange Commission
Washington, D.C. 20549

OMB APPROVAL
OMB Number: 3235-0344
Expires: Oct. 31, 1989

APPOINTMENT OF AGENT FOR SERVICE OF PROCESS BY FOREIGN BANKS AND THEIR FINANCE SUBSIDIARIES OFFERING OR SELLING DEBT SECURITIES OR NON-VOTING PREFERRED STOCK IN THE UNITED STATES

General Instructions

I. Form N-6C9 shall be filed by any foreign bank relying on rule 6c-9 (§ 270.6c-9 of this chapter) to offer or sell its own debt securities or non-voting preferred stock in the United States directly or through a finance subsidiary. Where the finance subsidiary is incorporated or organized under the laws of a jurisdiction other than the United States or any State, the subsidiary must also file the form.

Rule 6c-9 permits a foreign bank or the bank's subsidiary to offer or sell its own debt securities or non-voting preferred stock in the United States without registering as an investment company under the Investment Company Act of 1940, provided, among other things, that form N-6C9 has been filed with the Commission.

II. Form N-6C9 shall be filed in duplicate original.

1. Name of foreign entity:

Filer is (select one):

☐ a foreign bank offering or selling debt securities or non-voting preferred stock in the United States;

☐ a finance subsidiary of a foreign bank offering or selling debt securities or non-voting preferred stock in the United States; or

☐ a foreign bank parent unconditionally guaranteeing the payment of principal, interest, and premium on the debt securities or the payment of dividends, liquidation preferences, and sinking fund payments on the non-voting preferred stock offered or sold by its finance subsidiary in the United States.

2. This is (select one):

☐ an original filing for the Filer in the capacity indicated above; or

☐ an amended filing for the Filer in the capacity indicated above.

3. The Filer is incorporated or organized under the laws of (Name of the jurisdiction under whose laws the Filer is organized or incorporated)

and has its principal place of business at (Address in full)

4. The Filer designates and appoints, for as long as any of its debt securities or non-voting preferred stock referred to below are outstanding, (Name of Agent):

("Agent") located at (Address in full):

, USA

as the agent of the Filer upon whom process may be served in any action brought against the Filer arising out of or based on the offer or sale of debt securities or non-voting preferred stock in any place subject to the jurisdiction of any State or of the United States.

5. The Filer consents, stipulates and agrees, for as long as any such debt securities or non-voting preferred stock are outstanding, (a) that any such action may be commenced against it by the service of process upon the Agent, which shall be deemed service upon the Filer, and (b) that such service and forwarding of process shall be held by any appropriate court to be as valid and binding as if personal service has been made.

6. The Filer stipulates and agrees, for as long as any such debt securities or non-voting preferred stock are outstanding, to appoint a successor agent for service of process and file an amended form N-6C9 if the Filer discharges the Agent or the Agent is unwilling or unable to continue to accept service on behalf of the Filer.

SEC 2174 (9-87)

The Filer certifies that it has duly caused this power of attorney, consent, stipulation and agreement to be signed on its behalf by the undersigned, thereunto duly authorized, in the

City of _____ Province (or State) of _____

this _____ day of _____ 19 _____ A.D.

Filer: By (Signature and Title)

This statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) _____

(Title) _____

(Date) _____

Instructions:

1. The power of attorney, consent, stipulation and agreement shall be signed by the Filer, its principal executive officer or officers, at least a majority of the board of directors or persons performing similar functions, and its authorized Agent in the United States. Where the Filer is a limited partnership the power of attorney, consent, stipulation and agreement shall be signed by a majority of the board of directors of any corporate general partner signing the power of attorney, consent, stipulation and agreement.

2. The name of each person who signs form N-6C9 shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs form N-6C9. Each copy shall be manually signed by the persons specified in Instruction 1. Where any name is signed pursuant to a board resolution, a certified copy of the resolution shall be filed with each copy of the form. If any name is signed pursuant to a power of attorney, a manually signed copy of each power of attorney shall be filed with each copy of the form.

NOTE: The persons executing this power of attorney, consent, stipulation and agreement should appear before a person authorized to administer acknowledgements in the jurisdiction in which it is executed and acknowledge that they executed it on behalf of the Filer as its free and voluntary act. The acknowledgement should be in the form prescribed by the law of the jurisdiction in which it is executed. The form of acknowledgement suggested below should be used only if consistent with the requirements of the law of such jurisdiction.

The failure of any acknowledgement to meet applicable requirements shall not affect the validity or effect of the foregoing power of attorney, consent, stipulation and agreement.

Province (or State) of _____)
) ss.
County of _____)

I (Name) _____, a (Official position of person administering acknowledgement)

_____, in and for (said County in) the Province (or State) aforesaid, certify that the foregoing named persons personally appeared before me this day, stated that they are the same persons named in this instrument, that they serve in the capacity stated in this instrument, that they are authorized to execute this instrument for the Filer, and that they signed and sealed this instrument for and on behalf of the Filer as its free and voluntary act for the uses and purposes set forth.

Given under my hand and seal this _____ day of _____, 19_____ A.D.

Signature of official: _____

(Seal)

Official position: _____

My Commission (or Office) expires:

(Date) _____

[FR Doc. 87-25507 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 430, 440, and 455

[Docket No. 87N-0312]

Antibiotic Drugs; Sterile Sulbactam Sodium, Sterile Ampicillin Sodium and Sulbactam Sodium

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for: (1) Inclusion of accepted standards for a new antibiotic drug, sterile sulbactam sodium, and (2) use of the antibiotic drug in a new dosage form, sterile ampicillin sodium and sulbactam sodium. The manufacturer has supplied sufficient data and information to establish their safety and efficacy.

DATES: Effective November 4, 1987; comments, notice of participation, and request for hearing by December 4, 1987; data, information, and analyses to justify a hearing by January 4, 1988.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, sterile sulbactam sodium, and its use in a new dosage form, sterile ampicillin sodium and sulbactam sodium. The agency has concluded that the data supplied by the manufacturer concerning these antibiotic drugs are adequate to establish their safety and efficacy when used as directed in the labeling and that the regulations should be amended in 21 CFR Parts 430, 440, and 455 to provide for the inclusion of accepted standards for the product.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. This final rule, therefore, is effective November 4, 1987. However, interested persons may, on or before December 4, 1987, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file: (1) On or before December 4, 1987, a written notice of participation and request for hearing, and (2) on or before January 4, 1988, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Part 440

Antibiotics.

21 CFR Part 455

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 430, 440, and 455 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. The authority citation for 21 CFR Part 430 continues to read as follows:

Authority: Secs. 507, 701(a), 59 Stat. 463 as amended, 52 Stat. 1055 (21 U.S.C. 357, 371(a)); 21 CFR 5.10.

2. Part 430 is amended in § 430.4 by adding new paragraph (a)(57) to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) * * *

(57) *Sulbactam.* Sulbactam is a semi-synthetic antibiotic substance produced by the oxidation of the sulfur atom at the 4 position to its dioxide and the deamination at the 6 position of (2*S*,5*R*)-6-amino-3,3-dimethyl-7-oxo-4 thia-1-azabicyclo[3.2.0]heptane-2-carboxylic acid (6-APA).

3. In § 430.5 by adding new paragraphs (a)(90) and (b)(92) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(90) *Sulbactam.* The term "sulbactam master standard" means a specific lot of sulbactam that is designated by the Commissioner as the standard of comparison in determining the potency of the sulbactam working standard.

(b) * * *

(92) *Sulbactam.* The term "sulbactam working standard" means a specific lot of a homogeneous preparation of sulbactam.

4. In § 430.6 by adding new paragraph (b)(92) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(92) *Sulbactam.* The term "microgram" applied to sulbactam means the sulbactam activity (potency) contained in 1.002 micrograms of the sulbactam master standard.

PART 440—PENICILLIN ANTIBIOTIC DRUGS

5. The authority citation for 21 CFR Part 440 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

6. Part 440 is amended in § 440.9a by revising paragraph (b)(1)(i) and by adding new paragraph (b)(1)(ii)(*d*) to read as follows:

§ 440.9a Sterile ampicillin sodium.

* * * * *

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Sample preparation.* Dissolve an accurately weighed sample in sufficient sterile distilled water to give a stock solution containing 0.1 milligram of ampicillin per milliliter (estimated), for the microbiological agar diffusion assay and in 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), for the iodometric assay or for the hydroxylamine colorimetric assay to give a stock solution of convenient concentration. For the high-performance liquid chromatographic assay (HPLC), transfer an accurately weighed portion of ampicillin, equivalent to about 100 milligrams of anhydrous ampicillin, to a 100-milliliter volumetric flask. Add about 75 milliliters of diluent (prepared as described in paragraph (b)(1)(ii)(*d*)(*1*)(*ii*) of this section), shake and sonicate, if necessary, to achieve complete dissolution. Also, if it is packaged for dispensing, reconstitute as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container, or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute with either sterile distilled water, solution 1, or HPLC diluent to give a stock solution as specified above.

(ii) * * *

(*d*) *HPLC assay.* Proceed as directed in § 436.216 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength of 254 nanometers, a 4-millimeter X 5-centimeter guard column containing 40- to 60-micrometer diameter packing material as described for the analytical column, a 4-millimeter X 30-centimeter analytical column packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing material such as octadecyl hydrocarbon bonded silica, and a flow rate of about 2.0 milliliters per minute. Separately inject equal volumes (about 20 microliters) of the working standard preparation and the sample solution into the chromatograph, record the chromatogram, and measure the responses for the major peaks. Reagents, working standard and resolution test solution, system suitability requirements, and calculations are as follows:

(*1*) *Reagents*—(*i*) *Mobile phase.* Prepare a suitably filtered and degassed mixture of water, acetonitrile, 1.0*M* monobasic potassium phosphate, and 1.0*N* acetic acid (909:80:10:1).

(*ii*) *Diluent.* Mix 10 milliliters of 1.0*M* monobasic potassium and 1 milliliter of 1.0*N* acetic acid, dilute with water to make 1,000 milliliters, and mix.

(*2*) *Preparation of working and internal standard solutions*—(*i*) *Working standard solution.* Dissolve a portion of ampicillin working standard, accurately weighed, in the diluent to obtain a solution having a known concentration of about 1 milligram per milliliter. Shake and sonicate, if necessary, to achieve complete dissolution. Use this solution promptly after preparation.

(*ii*) *Resolution test solution.* Dissolve caffeine in working standard solution to obtain a solution containing about 1 milligram per milliliter.

(*3*) *System suitability requirements*—(*i*) *Tailing factor.* The tailing factor (*T*) is satisfactory if it is not more than 1.4 at 5 percent of peak height.

(*ii*) *Resolution.* The resolution (*R*) between the caffeine and the ampicillin peaks is satisfactory if it is not less than 2.0. The relative retention times are about 2.0 for caffeine and 1.0 for ampicillin.

(*iii*) *Coefficient of variation (relative standard deviation).* The coefficient of variation (S_R in percent) of 5 replicate injections is satisfactory if it is not more than 2.0 percent.

If the system suitability requirements have been met, then proceed as described in § 436.216(b) of this chapter. Alternate chromatographic conditions are acceptable provided reproducibility and resolution are comparable to the system. However, the sample preparation described in paragraph (b)(1)(i) of this section should not be changed.

(*4*) *Calculations.* Calculate the micrograms of ampicillin per milligram of sample as follows:

$$\text{Micrograms of ampicillin per milligram} = \frac{A_u X P_{3s} \times 100}{A_s \times C_u \times (100\text{-}m)}$$

where:

A_u = Area of the ampicillin peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the ampicillin peak in the chromatogram of the ampicillin working standard;

P_s = Ampicillin activity in the ampicillin working standard solution in micrograms per milliliter;

C_u = Milligrams of sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

* * * * *

7. By redesignating § 440.209 as § 440.209a and by adding new §§ 440.209 and 440.209b to read as follows:

§ 440.209 Ampicillin sodium injectable dosage forms.

§ 440.209a [Redesignated from § 440.209]

§ 440.209b Sterile ampicillin sodium and sulbactam sodium.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Ampicillin sodium and sulbactam sodium is a dry mixture of ampicillin sodium and sulbactam sodium in which the ratio of ampicillin to sulbactam is 2:1. Its ampicillin potency is not less than 563 micrograms of ampicillin per milligram on an anhydrous basis. It contains not less than 280 micrograms of sulbactam per milligram on an anhydrous basis. Its ampicillin sodium content is satisfactory if it contains not less than 90 percent and not more than 115 percent of the number of milligrams of ampicillin that it is represented to contain. Its sulbactam sodium content is satisfactory if it contains not less than 90 percent and not more than 115 percent of the number of milligrams of sulbactam that it is represented to contain. It is sterile. It is nonpyrogenic. Its moisture content is not more than 2.0 percent. The pH of an aqueous solution containing 10 milligrams of ampicillin and 5 milligrams of sulbactam per milliliter is not less than 8.0 and not more than 10.0. It passes the identity test for ampicillin and sulbactam. The ampicillin sodium content conforms to the standards prescribed by § 440.9a(a)(1) of this chapter. The sulbactam content conforms to the

standards prescribed by § 455.82a(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The ampicillin sodium used in making the batch for potency, sterility, pyrogens, moisture, pH, crystallinity, and identity.

(B) The sulbactam sodium used in making the batch for potency, sterility, pyrogens, moisture, crystallinity, and identity.

(C) The batch for ampicillin potency, sulbactam potency, sterility, pyrogens, moisture, pH, and identity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics:

(A) The ampicillin sodium used in making the batch: 12 packages, each containing approximately 300 milligrams.

(B) The sulbactam sodium used in making the batch: 12 packages, each containing approximately 300 milligrams.

(C) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: A minimum of 20 immediate containers collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Ampicillin and sulbactam content.* Proceed as directed in § 436.216 of this chapter, operating isothermally at 25 °C, using an ultraviolet detection system operating at a wavelength of 230 nanometers, a column packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing material such as octadecyl hydrocarbon bonded silica, a flow rate of 2.0 milliliters per minute, and a known injection volume of 10 microliters. Reagents, working standard and sample solutions, system suitability requirements, and calculations are as follows:

(i) *Reagents*—(A) *1.0M Phosphoric acid.* Prepare by diluting 67.5 milliliters of reagent grade phosphoric acid (85 percent) in distilled water to 1 liter.

(B) *0.005M Tetrabutylammonium hydroxide.* Dilute 6.6 milliliters of tetrabutylammonium hydroxide (40 percent) to 1,800 milliliters with distilled water. Adjust the pH to 5.0 with 1.0*M* phosphoric acid and dilute with distilled water to 2 liters.

(C) *Mobile phase.* Mix 350 milliliters of acetonitrile with 1,650 milliliters of 0.005*M* tetrabutylammonium hydroxide. Filter and degas the mobile phase just prior to its introduction into the chromatograph pumping system. (Slight adjustments in pH and/or acetonitrile content may be made to achieve the system suitability parameters defined in paragraph (b)(1)(iii) of this section.)

(ii) *Preparation of working standard and sample solutions*—(A) *Working standard solution.* Accurately weigh a portion of the ampicillin working standard containing the equivalence of approximately 75 milligrams of ampicillin activity and transfer into a 25-milliliter volumetric flask. Accurately weigh a portion of the sulbactam working standard containing 35 milligrams of sulbactam and transfer into the 25-milliliter volumetric flask containing the ampicillin. Dissolve and dilute to volume with mobile phase. Further dilute 5 milliliters to 25 milliliters with mobile phase.

(B) *Sample solution.* Dissolve an accurately weighed sample in sufficient mobile phase to give a stock solution containing 1 milligram of sample per milliliter (estimated); and, also, if it is packaged for dispensing, reconstitute as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container, or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute with mobile phase to yield a solution containing about 0.30 milligram sulbactam and about 0.60 milligram ampicillin per milliliter.

(iii) *System suitability requirements*—(A) *Tailing factor.* The tailing factor (*T*) is satisfactory if it is not more than 1.5 at 10 percent of peak height in lieu of 5 percent of peak height.

(B) *Efficiency of the column.* The efficiency of the column (*n*) is satisfactory if it is greater than 5,000 theoretical plates for sulbactam for a 30-centimeter column.

(C) *Resolution.* Dissolve 17.5 milligrams of sulbactam in 50 milliliters of 0.01*N* sodium hydroxide and let stand for 30 minutes. Adjust the pH of the solution to 5.0 with concentrated phosphoric acid. Transfer a 5-milliliter aliquot of the resulting solution to a 25-milliliter volumetric flask, add 4.25 milliliters of acetonitrile, and dilute to volume with 0.005*M* tetrabutylammonium hydroxide as described in paragraph (b)(1)(i)(B) of this section. Transfer 2 milliliters of this solution to a 50-milliliter flask, add 30 milligrams of ampicillin potency, dissolve and dilute to volume with mobile phase. Use this solution to determine the resolution factor. The resolution (*R*) between the peaks for ampicillin and sulbactam alkaline degradation product is satisfactory if it is not less than 4.0.

(D) *Coefficient of variation (relative standard deviation).* The coefficient of variation (S_R in percent) of 5 replicate injections is satisfactory if it is not more than 2.0 percent.

If the system suitability requirements have been met, then proceed as described in § 436.216(b) of this chapter. Alternate chromatographic conditions are acceptable provided reproducibility and resolution are comparable to the system. However, the sample preparation described in paragraph (b)(1)(ii)(*b*) of this section should not be changed.

(iv) *Calculations.* (A) Calculate the micrograms of ampicillin or sulbactam per milligram of sample as follows:

$$\text{Micrograms of ampicillin or sulbactam per milligram} = \frac{A_u \times P_s \times 100}{A_s \times C_u \times (100-m)}$$

where:

A_u = Area of the ampicillin or sulbactam peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the ampicillin or sulbactam peak in the chromatogram of the ampicillin or sulbactam working standard;

P_s = Ampicillin or sulbactam activity in the ampicillin-sulbactam working standard solution in micrograms per milliliter;

C_u = Milligrams of sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

(B) Calculate the ampicillin or sulbactam content of the container as follows:

$$\text{Milligrams of ampicillin or sulbactam per container} = \frac{A_u \times P_s \times d}{A_s \times 1{,}000}$$

where:

A_u = Area of the ampicillin or sulbactam peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the ampicillin or sulbactam peak in the chromatogram of the ampicillin or sulbactam working standard;

P_s = Ampicillin or sulbactam activity in the ampicillin-sulbactam working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a

solution containing 20 milligrams of sulbactam and 40 milligrams of ampicillin per milliliter.

(4) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams of ampicillin and 5 milligrams of sulbactam per milliliter.

(6) *Identity.* The high-performance liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the ampicillin-sulbactam working standard.

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

8. The authority citation for 21 CFR Part 455 continues to read as follows:

Authority: *Sec. 507, 59 Stat. 463 as* amended (21 U.S.C. 357); 21 CFR 5.10.

9. Part 455 is amended by adding new § 455.82a to read as follows:

§ 455.82a Sterile sulbactam sodium.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sterile sulbactam sodium is sodium (2*S*,5*R*)-3,3-dimethyl-7-oxo-4-thia-1-azabicyclo[3.2.0]heptane-2-carboxylate 4,4 dioxide. It is so purified and dried that:

(i) Its sulbactam potency is not less than 886 micrograms and not more than 941 micrograms per milligram on an anhydrous basis.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) Its moisture content is not more than 1 percent.

(v) It is crystalline.

(vi) It passes the identity test for sulbactam sodium.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, moisture, crystallinity, and identity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics: 30 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.216 of this chapter, using ambient temperature, an ultraviolet detection system operating at a wavelength of 230 nanometers, a column packed with microparticulate (3 to 10 micrometers in diameter) reversed phase packing material such as octadecyl hydrocarbon bonded silica, a flow rate of 2.0 milliliters per minute, and a known injection volume of 10 microliters. Reagents, working standard and sample solutions, system suitability requirements, and calculations are as follows:

(i) *Reagents*—(A) *1.0M Phosphoric acid.* Prepare by dissolving 67.5 milliliters of reagent grade phosphoric acid (85 percent) in distilled water and dilute to 1 liter.

(B) *0.005M Tetrabutylammonim hydroxide.* Dilute 6.6 milliliters of tetrabutylammonium hydroxide (40 percent) to 1,800 milliliters with distilled water. Adjust the pH to 5.0 with 1.0*M* phosphoric acid and dilute with distilled water to 2 liters.

(C) *Mobile phase.* Mix 350 milliliters of acetonitrile with 1,650 milliliters of 0.005*M* tetrabutylammonium hydroxide. Filter and degas the mobile phase just prior to its introduction into the chromatographic pumping system. (Slight adjustments in pH and/or acetonitrile content may be made to achieve the system suitability parameters defined in paragraph (b)(1)(iii) of this section.)

(ii) *Preparation of working standard and sample solutions*—(A) *Working standard solution.* Dissolve an accurately weighed portion of sulbactam working standard in sufficient mobile phase to give a stock solution of a known concentration containing about 1 milligram of sulbactam per milliliter.

(B) *Sample solution.* Dissolve an accurately weighed portion of the sample in sufficient mobile phase to give a stock solution containing 1 milligram of sulbactam per milliliter (estimated).

(iii) *System suitability requirements*—(A) *Tailing factor.* The tailing factor (*T*) is satisfactory if it is not more than 1.5 at 10 percent of peak height in lieu of 5 percent of peak height.

(B) *Efficiency of the column.* The efficiency of the column (*n*) is satisfactory for sulbactam if it is greater than 4,000 theoretical plates for a 30-centimeter column.

(C) *Resolution.* The resolution (*R*) between the peaks for sulbactam and penicillanic acid is satisfactory if it is not less than 3.8.

(D) *Coefficient of variation (relative standard deviation).* The coefficient of variation (S_R percent) of 5 replicate injections is satisfactory if it is not more than 2.0 percent.

If the system suitability requirements have been met, then proceed as described in § 436.216(b) of this chapter. Alternate chromatographic conditions are acceptable provided reproducibility and resolution are comparable to the system. However, the sample preparation described in paragraph (b)(1)(ii)(B) of this section should not be changed.

(iv) *Calculations.* Calculate the micrograms of sulbactam per milligram of sample as follows:

$$\text{Micrograms of sulbactam per milligram} = \frac{A_u \times P_s \times 100}{AG5s \times C_u \times (100-m)}$$

where:

A_u = Area of the sulbactam peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the sulbactam peak in the chromatogram of the sulbactam working standard;

P_s = Sulbactam activity in the sulbactam working standard solution in micrograms per milliliter;

C_u = Milligrams of sample per milliliter of sample solution; and

m = Percent moisture content of the sample.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 20 milligrams of sulbactam per milliliter.

(4) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(5) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(6) *Identity.* The high-performance liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the sulbactam working standard.

Dated: October 23, 1987.

Daniel L. Michels,

Director, Office of Compliance, Center for Drugs and Biologics.

[FR Doc. 87-25478 Filed 11-3-87; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300168; FRL-3284-1]

Revocation of Certain Interim Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule removes from the listing of interim tolerances the

names of two pesticide chemicals and the commodities listed for each of these pesticides. EPA is removing these interim tolerances because permanent tolerances have been established.

EFFECTIVE DATE: November 4, 1987.

ADDRESS: Written objections, identified by the document control number [OPP-300168], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Room 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

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: In the **Federal Register** of August 23, 1972 (37 FR 16937), EPA issued permanent tolerances for dipropyl isocinchomeronate (40 CFR 180.143) in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.1 part per million (ppm) and in milk at 0.004 ppm. In the **Federal Register** of May 21, 1973 (38 FR 13375), EPA issued permanent tolerances for nicotine (40 CFR 180.167a) in eggs and the meat, fat, and meat byproducts of poultry at 1 ppm. Previously, interim tolerances (40 CFR 180.319) had been established for these pesticide chemicals on the named commodities until such time as action could be completed on pending petitions to establish permanent tolerances. Since the permanent tolerances have been established, the interim tolerances are no longer needed and should be removed.

Therefore, EPA is removing the interim tolerances for isopropyl isocinchomeronate and nicotine.

This action has not been subjected to proposed rulemaking or public comment since amending the regulation results only in removal of duplicate entries.

This final rule has been reviewed under Executive Order 12291 and has been determined to be a "nonmajor" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act, it has been determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 180

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

Dated: October 22, 1987.

Susan H. Wayland,

Acting 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.

§ 180.319 [Amended]

2. By amending § 180.319 *Interim tolerances* by removing the entries for "Dipropyl isocinchomeronate" and "Nicotine" from the alphabetical listings therein.

[FR Doc. 87-25035 Filed 11-3-87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 4F3115, 4F3116, 4F3117/R916; FRL-3284-3]

Oxyfluorfen; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide oxyfluorfen in or on the raw agricultural commodities (RACs) avocados, dates, kiwifruit, olives, pome fruits group, pomegranates, and stone fruits group. This regulation to establish a maximum permissible level for residues of oxyfluorfen in or on the RACs was requested by Rohm & Haas Co.

EFFECTIVE DATE: Effective November 4, 1987.

ADDRESS: Written objections, identified by the document control number [PP 4F3115, PP4F3116, PP4F3117/R916], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail:

Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

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

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of May 13, 1987 (52 FR 18019), which announced that Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, had submitted pesticide petitions (PP 4F3115, 4F3116, and 4F3117 to EPA proposing to amend 40 CFR 180.318 by establishing a tolerance for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolites containing the dipenyl ether linkage in or on the RACs pome fruits crop group, stone fruits group, avocados, dates, kiwis, olives, and pomegranates at 0.05 part per million (ppm).

Rohm & Haas subsequently amended the petitions to specify the total residues of the herbicide oxyflurofen and its metabolites containing the diphenyl ether linkage.

No comments were received in response to the notice of filing.

The data submitted in the petitions and other relevant material have been evaluated. The toxicology data considered in support of the tolerance include:

1. A 20-month mouse feeding study (chronic feeding/oncogenicity) with no-observed-effect level of 2 ppm (0.3 milligram (mg) per kilogram (kg) of body weight (bw)) and a lowest effect level of 20 ppm (increased absolute liver weight and nonneoplastic histological lesions). The Cancer Assessment Group (CAG) was asked to evaluate the oncogenic potential of oxyfluorfen. CAG stated that both the rat and the mouse chronic studies did not use the maximum tolerated dose (MTD). The Agency requested that 90-day mouse and rat studies be performed as an estimate to determine the MTD. Subsequently, it was determined that toxicological concerns were not considered sufficient to regulate oxyflurofen as an oncogen, and oxyfluorfen received unconditional registration by the Agency.

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

3. A rat oral lethal dose LD50 greater than 5.0 grams/kg.

4. A rat cytogenetic test (purified oxyfluorfen), negative; two Ames assays (technical), positive; an Ames assay (purified oxyfluorfen), negative; an Ames assay (polar fraction), positive; and Unscheduled DNA Synthesis Assays (technical and polar fraction), both negative.

5. A rabbit teratology study with no observed teratogenic effect at 30 mg/kg and a developmental toxicity NOEL of 10 mg/kg.

6. A rat teratology study with no observed terata at 1,000 mg/kg/ of bw (highest dose tested) and a developmental toxicity NOEL of 100 mg/kg.

7. A three-generation rat reproduction study with a NOEL of 10 ppm (0.5 mg/kg of bw).

8. A 2-year rat chronic feeding/oncogenicity study with a NOEL of 40 ppm (2.0 mg/kg of bw) and no oncogenic potential observed at the levels tested (2, 40, and 800 ppm, raised to 1,600 ppm at week 57 of the test).

The acceptable daily intake (ADI), based on the chronic mouse feeding study NOEL of 0.3 mg/kg/day and using a hundred-fold safety factor, is calculated to be 0.003 mg/kg of bw/day. The maximum permitted intake for a 60-kg human is calculated to be 0.18 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0394 mg/day; the current action will increase the TMRC by 0.00222 mg/day (5.63 percent). Published tolerances utilize 21.91 percent of the ADI: the current action will utilize an additional 1.22 percent to total 23.13 percent.

There are no regulatory actions pending against this pesticide. Oxyfluorfen was the subject of a Rebuttable Presumption Against Registration process and a Notice of Determination that was published in the **Federal Register** of June 23, 1982 (47 FR 27118).

One of the solvents used in the production of technical oxyfluorfen, perchloroethylene (PCE), has been shown to produce liver tumors in mice. The Agency has concluded that potential benefits from use of oxyfluorfen outweigh risks from PCE, provided oxyfluorfen products are produced with no more than 200 ppm PCE contaminant. The producer of oxyfluorfen has verified that oxyfluorfen formulations contain a maximum of 200 ppm PCE.

The pesticide is considered useful for the purpose for which the tolerance is sought. The metabolism of the pesticide is adequately understood for the proposed uses and an adequate analytical method, gas chromatography, is available for enforcement purposes.

Because of the long lead-time from establishing this tolerance to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: William Grosse, Chief, Information Service Branch (TS-767C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Rm. 223, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Established tolerances are adequate to cover any secondary residue in meat, milk, and eggs.

Based on the information cited above, the Agency has determined that the establishment of the tolerance for residues of the pesticide in or on the RACs 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. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: October 22, 1987.

Susan H. Wayland,

Acting 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 180.381(a) is amended by adding, and alphabetically inserting, the raw agricultural commodities avocados, dates, kiwifruit, olives, pome fruits group, pomegranates, and stone fruits group and removing the raw agricultural commodities cherries, pears, and stone fruits (apricots, nectarines, peaches, plums (fresh prunes)), to read as follows:

§ 180.381 Oxyflurofen; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * *	
Avocados	0.05
* * * *	
Dates	0.05
* * * *	
Kiwifruit	0.05
Olives	0.05
* * * *	
Pome fruits group	0.05
Pomegranates	0.05
* * * *	
Stone fruits group	0.05
* * * *	

[FR Doc. 87-25036 Filed 11-3-87; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 201-38

[FIRMR Amdt. 11]

Amendment of the Federal Information Resources Management Regulation (FIRMR) To Clarify the Policy Regarding Authorized Use of Government Telephone Systems

AGENCY: Information Resources Management Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation changes FIRMR provisions regarding permissible and impermissible long distance calls on Government telephone systems by furnishing examples of permissible official business calls and by providing Governmentwide standards to be applied when collecting money from persons making unauthorized use of Government telephone systems. Audits of telephone use have disclosed real abuse; however, narrow interpretations of what constitutes an official call have undermined efforts to eliminate abuse, and are not congruent with good management practice. The intent is to authorize Federal agencies to permit Federal employees to make reasonable use of Government telephone systems and at the same time, to guard against abuse of telephone use.

EFFECTIVE DATE: This rule is effective January 4, 1988, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT: John J. Landers, Information Resources Management Service, telephone (202) 535-7425 or FTS, 535-7425.

SUPPLEMENTARY INFORMATION: (1) On March 27, 1987, GSA published a notice of proposed rulemaking. It invited public and agency comment. GSA received comments from 26 organizations or individuals from 3 identifiable categories of commentator:

Federal Agencies	13
Employee representatives	5
Federal employees	8

All but one of the commentators supported the action GSA was proposing and almost all made suggestions to improve the clarity of the regulation.

(2) Section 201-38.007 is retitled and revised to furnish clearer policy regarding the use of Government telephone systems. Several commentators remarked that the use of "Federal telecommunications systems" might be confused with "Federal Telecommunications System." Since the intent was to apply the regulation broadly, the language has been changed to "Government telephone systems."

One commentator was concerned that the proposal only dealt with long distance telephone use by employees and not by contractors. A change has been made in § 201-38.007-6 to remind agencies that they should consider how to apply their implementing instructions to contractor-operated activities. The other changes are explained in the following paragraphs.

(a) Section 201-38.007 is restated to clarify what constitutes an official business call.

Commentators in general welcomed the clarification of policy on official calls in relation to the setting of reasonable bounds consistent with both sound personnel relations and the management of Government resources. The policy was perceived as a positive step in relation to management efforts to deal with waste and abuse in the use of Government telephone systems.

(b) Section 201-38.007-1 furnishes examples of permissible official business calls.

One commentator said that example (1) appeared to place a limit of one call in the event of an employee injured on the job when, in fact, calls to physicians, family, car-pool members, and others might be necessary. The language has been modified to make it clear that more than one call may be appropriate.

Several commentators said that the restriction in example (3) limiting calls by traveling Federal employees to Federal Telecommunications System (FTS) calls was inequitable and should be removed. The example has been modified to remove the restriction but to apply the example only to travel within the United States, only to trips of more than one night, and to establish a limit on the total number of calls.

Some commentators thought that the use of "local commuting area" in examples (5) and (6) meant that such calls were limited to local calls. Since this was not the intent, the language has been modified to make it clearer. Similar language has been added to example (4).

Several of the employee representatives commented that it was not clear in example (7) whether the provision was talking about representative use of Government telephone systems for labor-management relations purposes or about employee use of the systems. Since the intent was to cover both, the language has been left without any modifiers.

One commentator said that the language in example (7) should be changed slightly so that it would conform to 5 U.S.C. 7116. That change has been made. Example (7) has been replaced by § 201-38.007-1(b)(4).

Several commentators suggested adding an example of an emergency call to arrange for such things as home or automobile repair. A new example (7) has been included.

(c) Section 201-38.007-2 cautions against abuse by employees.

(d) Section 201-38.007-3 furnishes guidance on prohibited calls.

One commentator said that the proposed language would not protect employees against penalties for inadvertent violations. "Willful" has been added to deal with this point.

One commentator asked that citations be included. This has been done.

One commentator said that (b) was not needed because there were other ways to deal with employees who are using telecommunications systems properly but not as efficiently as the agency would prefer. Had this been the purpose of this section we would agree with the comment. However, the purpose was to emphasize that the agency business must not be significantly interfered with by employees making the kinds of calls permitted by § 201-38.007-1 (b) and (d). The language has been changed to make this clearer.

(e) Section 201-38.007-4 states the policy regarding collecting money from persons making unauthorized long distance calls.

Some commentators suggested that additional guidance be given on calculating the administrative costs. Since the issue seems reasonably straightforward, e.g., add up the salary and other costs involved in reviewing the long-distance call data and divide by the number of employees in the agency, GSA does not plan to issue additional guidance.

(f) Section 201-38.007-5 calls agencies attention to Office of Management and Budget (OMB) guidance on the Privacy Act as it relates to call detail records.

(g) Section 201-38.007-6 sets forth agency responsibilities. One commentator was concerned that the increased uses of Government telephone systems permitted by this regulation could lead to substantial increases in variety, capability, and cost of agency telephone systems. A sentence has been added to make it clear that the regulation envisions employee use of telephones and services already installed and does not encourage agencies to install additional telephones or to increase levels of service on existing telephones merely to accommodate circumstances for employee calls authorized by this regulation.

(h) Section 201-38.007-7 authorizes delegations of authority within agencies.

(3) The General Services Administration has determined that this is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This Governmentwide management regulation will have little or no cost effect on society. Therefore, the rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

List of Subjects in 41 CFR Part 201-38

Government property management, Government procurement, Telecommunications, Information resources activities, Federal Telecommunications System.

PART 201-38—MANAGEMENT OF TELECOMMUNICATIONS RESOURCES

1. The table of contents for Part 201-38 is amended by revising and adding the following entries and revising the authority citation for the part to read as follows:

Sec.	
201-38.007	Policies on the use of telecommunications services.
201-38.007-1	Authorized use of Government telephone systems.
201-38.007-2	Abuse by employees.
201-38.007-3	Prohibitions.
201-38.007-4	Collections.
201-38.007-5	Privacy Act considerations.
201-38.007-6	Agency responsibilities.
201-38.007-7	Delegation of authority.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and Sec. 101(f), 100 Stat. 2128; 40 U.S.C. 751(f).

2. Section 201-38.007 is revised and §§ 201-38.007-1 through 201-38.007-7 are added to read as follows:

§ 201-38.007 Policies on use of telecommunications services.

The Federal Telecommunications System (FTS) intercity network and other Government-provided long distance telephone services are to be used only to conduct official business; i.e., if the call is necessary in the interest of the Government. (Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 926, Title 31 U.S.C. 1348(b).) These networks are to be used for placement of calls instead of the commercial toll network to the maximum extent practicable. All Government telephone systems represent resources; accordingly, their use must be managed just as any other resource. Supervisors are responsible for the proper management of telephone usage within their jurisdiction. (Note.—See the FIRMR bulletin series for guidance on the management of long-distance telephone services.)

§ 201-38.007-1 Authorized use of Government telephone systems.

(a) The use of Government telephone systems (including calls over commercial systems which will be paid for by the Government) shall be limited to the conduct of official business. Such official business calls may include emergency calls and calls which the agency determines are necessary in the interest of the Government. No other calls may be placed (except in circumstances identified in paragraphs (b) and (d) of this § 201-38.007-1), even if the employee's intention is to reimburse the Government for the cost of the call.

(b) Use of Government telephone systems may properly be authorized as being necessary in the interest of the Government if such use satisfies the following criteria:

(1) It does not adversely affect the performance of official duties by the employee or the employee's organization,

(2) It is of reasonable duration and frequency, and

(3) It reasonably could not have been made at another time, or

(4) It is provided for in a collective bargaining agreement that is consistent with these regulations, or executed before the effective date of these regulations but continuing only until the term of the agreement expires.

(c) Examples of circumstances that may constitute authorized use, when consistent with these criteria, are set forth in the chart entitled "Examples of Use of Government Telephone Systems That May Be Authorized Provided They Are Consistent With § 201-38.007-1(b)" appearing at the end of this § 201-38.007-1.

(d) Personal calls that must be made during working hours may be made over the commercial long distance network if the call is consistent with the criteria in § 201-38.007-1(b) and is—

(1) Charged to the employee's home phone number or other non-Government number (third number call),

(2) Made to an 800 toll-free number,

(3) Charged to the called party if a non-Government number (collect call), or

(4) Charged to a personal telephone credit card.

CHART

Examples of Use of Government Telephone Systems That May Be Authorized Provided They Are Consistent With § 201-38.007-1(b)

(1) Calls to notify family, doctor, etc., when an employee is injured on the job.

(2) An employee traveling on Government business is delayed due to official business or transportation delay, and calls to notify family of a schedule change.

(3) An employee traveling for more than one night on Government business in the U.S. makes a brief call to his or her residence (but not more than an average of one call per day).

(4) An employee is required to work overtime without advance notice and calls within the local commuting area (the area from which the employee regularly commutes) to advise his or her family of the change in schedule or to make alternate transportation or child care arrangements.

(5) An employee makes a brief daily call to locations within the local commuting area to speak to spouse or minor children (or those responsible for them, e.g., school or day-care center) to see how they are.

(6) An employee makes brief calls to locations within the local commuting area that can be reached only during working hours, such as a local government agency or physician.

(7) An employee makes brief calls to locations within the local commuting area to arrange for emergency repairs to his or her residence or automobile.

§ 201-38.007-2 Abuse by employees.

Employees should be particularly sensitive to the use of Government telephone facilities under the conditions outlined in § 201-38.007-1. If possible, such calls should be made during lunch, break, or other off-duty periods. Abuse of Government telephone systems, including abuse of the privileges in § 201-38.007-1, may result in disciplinary action in accordance with applicable agency guidelines.

§ 201-38.007-3 Prohibitions.

The practices set forth in this § 201-38.007-3 are prohibited. A willful violation may result in criminal, civil or administrative action, including suspension or dismissal. (See 5 CFR 735.205.)

(a) Use of the following services, equipment, or facilities for other than official business, except emergency calls, and calls which the agency determines are necessary in the interest of the Government as provided in § 201-38.007-1:

(1) Federal Telecommunications System (FTS);

(2) Government-provided long distance telephone service, other than FTS; or

(3) A commercial network where the Government pays for the call.

(b) Use of any Government-provided telephone service, equipment or facility for calls permitted by § 201-38.007-1 (b) and (d) that significantly interferes with the conduct of Government business.

(c) Making an unauthorized telephone call with the intent to later reimburse the Government.

(d) Listening-in or recording of telephone conversations except as specified by Subpart 201-6.2.

(e) Use of telephone call detail data in other than an authorized fashion. (See § 201-38.007-5.)

§ 201-38.007-4 Collections.

(a) Agencies should collect for any unauthorized calls made by an employee or other person where it is cost-effective to do so. Each call will be valued and collection made in accordance with paragraph (b) of this § 201-38.007-4, as implemented by the agency. Reimbursing the Government for unauthorized calls does not exempt an employee from appropriate administrative, civil, or criminal action.

(b) Agency collections shall be composed of two parts:

(1) The value of the call based on commercial long-distance rates rounded to the nearest dollar, and

(2) An amount rounded to the nearest dollar to cover the agencies' administrative costs, for example, to determine that the call was unauthorized and to process the collection.

(c) Agencies should determine the appropriate account for depositing the monies collected.

§ 201-38.007-5 Privacy Act considerations.

Agencies shall be familiar with the Office of Management and Budget (OMB) "Guidance on the Privacy Act Implications of 'Call Detail' Programs to Manage Employees' Use of the Government's Telecommunications Systems" (52 FR 12990, April 20, 1987).

§ 201-38.007-6 Agency responsibilities.

Agencies shall issue directives consistent with §§ 201-38.007 through 201-38.007-5 governing the use of their telephone facilities and services. Agencies with contractor-operated facilities should consider how to apply the implementing directives to those activities. Such directives specifically shall provide for the further definition of calls necessary in the interest of the Government as used in § 201-38.007-1 and shall include procedures for collections. Agencies should not install additional telephones or increase levels of service on existing telephones merely to accommodate circumstances for calls that may constitute authorized use as identified in the chart, "Examples of Use of Government Telephone Systems That May Be Authorized Provided They Are Consistent With § 201-38.007-1(b)" or other circumstances for calls as defined in agency implementing directives.

§ 201-38.007-7 Delegation of authority.

The head of each agency may designate subordinates to determine and certify what constitutes a call necessary in the interest of the Government.

Dated: October 27, 1987.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87-25496 Filed 11-2-87; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF JUSTICE

48 CFR Part 2806

[Justice Acquisition Circular 87-2]

Amendment to the Justice Acquisition Regulation (JAR) Concerning Competition Advocacy

AGENCY: Justice Management Division, Office of the Procurement Executive, Justice.

ACTION: Final rule.

SUMMARY: The Justice Acquisition Regulation, Part 2806 is amended to serve notice that the agency competition advocate function has been moved from the Office of the Procurement Executive to the Office of Personnel and Administration. The purpose of this transfer is to assure the independence of the competition advocate in accordance with the intent of the Competition in Contracting Act of 1984 (Pub. L. 98-369).

EFFECTIVE DATE: August 24, 1987.

FOR FURTHER INFORMATION CONTACT: W.L. Vann, Procurement Executive, Office of the Procurement Executive, (202) 272-8354.

SUPPLEMENTARY INFORMATION: This amendment to the JAR was not published for public comment because it does not have an effect beyond the internal operating procedures of the agency. The Director, Office of Management and Budget (OMB) by memorandum dated December 14, 1987 exempted procurement regulations from review under Executive Order 12291 except for selected areas. The Department's original implementation of the Competition Advocate concept was reviewed by OMB. This amendment will not change the function or role of the agency competition advocate and the Department has been advised that review is not required. The Department of Justice certifies that this document will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, et seq.).

List of Subjects in 48 CFR Part 2806

Government procurement.

Harry H. Flickinger,

Assistant Attorney General for Administration.

PART 2806—COMPETITION REQUIREMENTS

1. The authority citation for 48 CFR Part 2806 continues to read as follows:

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

Subpart 2806.5—Competition Advocates

2. Section 2806.501, paragraph (a) is revised as follows:

§ 2806.501 [Amended]

* * * * *

(a) The competition advocate for DOJ will be located in the Office of the Deputy Assistant Attorney General, Office of Personnel and Administration.

* * * * *

[FR Doc. 87-25491 Filed 11-3-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 70990-7190]

Atlantic Swordfish Fishery

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

ACTION: Final rule; notice of OMB control number extension.

SUMMARY: This rule extends the effectiveness of certain mandatory reporting requirements prescribed in the Fishery Management Plan for the Atlantic Swordfish Fishery (FMP). The Office of Management and Budget (OMB) has approved continued collection of information requirements for daily and trip records of persons issued a fishery permit in this fishery. The intent is to continue collection of information for purposes of fishery management.

EFFECTIVE DATE: Section 630.5 (b) and (c) continues effective until October 31, 1988.

FOR FURTHER INFORMATION CONTACT: Donna D. Turgeon (Fishery Management Officer), 202-673-5315.

SUPPLEMENTARY INFORMATION: The regulations at 50 CFR Part 630 implementing the FMP require at § 630.5 (b) and (c) that vessel owners or operators who are permitted to fish for or land swordfish with gear other than rod and reel in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea and who are selected to report must (1) advise in advance the Center Director, Southeast Fisheries Center, NMFS, of their intended departure and expected return from each fishing trip, and (2) maintain a daily fishing record on forms provided by the Center Director and submit these forms to the Center Director monthly. These requirements were implemented by a final rule (51 FR 20297, June 4, 1986) and approved by OMB (51 FR 28575, August 8, 1986) under OMB Control Number 0648-0016 until October 31, 1987. The intention was to collect a year's worth of baseline data for this fishery. These requirements have now been extended under OMB Control Number 0648-0016, and the baseline requirements have now been extended for an additional year.

List of Subjects in 50 CFR Part 630

Fisheries, Fishing.

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3510-3520 (1982).

Carmen J. Blondin,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-25575 Filed 11-2-87; 9:18 am]

BILLING CODE 3510-22-M

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50 CFR Part 642

[Docket No. 70605-7141]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic

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

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) closes the commercial fishery in the exclusive economic zone (EEZ) for king mackerel from the Gulf migratory group in the western zone. The Acting Director, Southeast Region, NMFS (Regional Director), has determined that the commercial quota of 0.22 million pounds for the western zone will be reached on November 1, 1987. This closure will ensure that the annual commercial quota of king mackerel for this zone is not exceeded.

EFFECTIVE DATE: Closure is effective at 0001 hours, local time, November 2, 1987, until 2400 hours, local time, June 30, 1988.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813-893-3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP), as amended, was developed by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils) under authority of the Magnuson Fishery Conservation and Management Act, and is implemented by regulations at 50 CFR Part 642. Amendment 1 to the FMP, which went into effect on September 22, 1985 (50 CFR 34840, August 28, 1985), established separate allocations for the Gulf and Atlantic migratory groups of king mackerel. Regulations effective June 30, 1987, implemented catch limits recommended by the Councils for the Gulf migratory group for the fishing year (July 1, 1987, through June 30, 1988). Those regulations set the commercial allocation at 0.7 million pounds, divided into quotas of 0.48 million pounds for the eastern zone and 0.22 million pounds for the western zone (52 FR 25012, July 2, 1987; corrected at 52 FR 33594, September 4, 1987). The boundary between the eastern and western zones is a line extending directly south from the Florida/Alabama boundary (87°31'06" W. longitude) to the outer limit of the EEZ.

The Secretary is required under § 642.22 to close any segment of the king mackerel fishery when its allocation or quota has been reached or is projected to be reached by publishing a notice in the **Federal Register**. The Regional Director has determined that the quota of 0.22 million pounds for the western zone of the Gulf migratory group of king mackerel will be reached on November 1, 1987. Hence, the commercial fishery for Gulf migratory group king mackerel from the western zone is closed effective 0001 hours, local time, November 2, 1987. The closure will remain in effect through June 30, 1988, the end of the fishing year.

Except for a person on a charter vessel, during the period of the closure, no person aboard a vessel permitted to fish under a commerical allocation may fish for, retain, or have in possession in the EEZ king mackerel from the western zone. A person aboard a charter vessel may continue to fish for king mackerel in the western zone under the recreational bag limit set forth in § 642.28(a)(1), provided the vessel is under charter, i.e., there are more than three persons aboard including captain and crew. During the closure, king mackerel taken from the western zone of the EEZ, including those harvested under the recreational bag limit, may not be purchased, bartered, traded, or sold. This prohibition does not apply to trade in king mackerel harvested, landed, and bartered, traded, or sold prior to the closure and held in cold storage by a dealer or processor.

Other Matters

This action is required by 50 CFR 642.22(a) and complies with E.O. 12291.

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

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 30, 1987.

Carmen J. Blondin,

Acting Assistant Administrator, for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-25503 Filed 10-30-87; 1:03 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 213
Wednesday, November 4, 1987

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 59

Egg Solids Requirement of Egg Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to lower the minimum total egg solids requirement for egg products identified as whole eggs which have been prepared other than in natural proportions from 24.70 to 24.20 percent. The change is proposed based on the results of a recent nationwide study of natural whole egg solids values. This action would bring the existing solids requirement for whole eggs produced in other than natural proportions in line with the current value for naturally produced whole eggs.

DATES: Comments must be received on or before January 4, 1988.

ADDRESS: Written comments may be mailed to D.M. Holbrook, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3944-S, P.O. Box 96456, Washington, DC 20090-6456. (For further information regarding comments, see "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Howard M. Magwire, Assistant Chief, Grading Branch, 202-447-3272.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

An initial determination has been made that this proposed rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or 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. This proposed regulation has been reviewed for cost effectiveness under U.S. Department of Agriculture (USDA) Secretary's procedures established in Departmental Regulation 1512-1 implementing Executive Order 12291. The proposal would revise the solids content requirement for whole eggs prepared other than in natural proportions to more closely approximate the solids content of naturally produced whole eggs.

Effect on Small Entities

The Administrator of AMS has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the revision would reflect current production practices of the egg products industry.

Comments

Interested persons are invited to submit written comments concerning these proposed revisions. Comments must be sent in duplicate to the Standardization Branch and should bear a reference to the date and page number of this issue of the Federal Register. Comments submitted on these proposed revisions will be made available for public inspection in the Washington, DC, Standardization Branch office during regular business hours.

Background

When egg products plants break and separate shell eggs, they produce whites, yolks, and a mixture of whites and yolks. The mixture of whites and yolks is eligible to be labeled and identified as whole eggs provided that the total egg solids content is adjusted to 24.70 percent or greater. This solids content requirement is based on the solids content found in naturally produced whole eggs.

Over the years, AMS has observed a gradual trend toward lower whole egg solids values in naturally produced whole eggs. Due to this trend, the Agency continually monitors test data covering the solids content of naturally produced whole eggs and periodically has conducted comprehensive studies designed to determine the effect of current production and industry practices and other factors on this value. Results over the past few years and two small preliminary studies have substantiated this trend. Because of this and the fact that the present value of 24.70 percent was based on a 1967 study, AMS conducted a comprehensive investigation from March 1986 to March 1987 to determine a current value.

The nationwide whole egg solids study represented various locations, production volumes, and breaking methods. In total 1,305 samples from 27 locations representing 175.6 million pounds of liquid egg production were selected during a 12-month period. After thorough statistical analysis, the data showed that the solids content of naturally produced whole eggs, based on samples derived from a total production of 175.6 million pounds of eggs, was 24.20 percent.

Proposed Revisions

AMS is proposing to revise the Regulations Governing the Inspection of Eggs and Egg Products in 7 CFR Part 59 to lower the total egg solids content percentage of egg products identified as whole eggs which have been prepared other than in natural proportions. The revision will correlate the solids content of naturally produced whole eggs with the solids content of whole eggs which have been prepared other than in natural proportions.

Accordingly, AMS is proposing to revise § 59.411 of the egg products inspection regulations (7 CFR 59.411(d)) to lower the minimum total egg solids content of egg products identified as whole eggs which have been prepared other than in natural proportions from 24.70 to 24.20 percent or greater.

Paperwork Reduction Act

This proposed rule would not change or require any additional collection of information from the public under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35. Existing information collection requirements in 7 CFR Part 59 have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and assigned OMB Control Number 0581-0113.

List of Subjects in 7 CFR Part 59

Shell eggs, Egg products, Mandatory inspection service.

For reasons set out in the preamble and under authority contained in the Egg Products Inspection Act (21 U.S.C. 1031–1056), it is proposed to amend Title 7, Part 59 of the Code of Federal Regulations as follows:

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

1. The authority citation of Part 59 continues to read as follows:

Authority: Secs. 2–28 of the Egg Products Inspection Act (84 Stat. 1620–1635; 21 U.S.C. 1031–1056).

2. Section 59.411 is amended by revising paragraph (d) to read as follows:

§ 59.411 Requirement of formulas and approval of labels for use in official egg products plants.

* * * * *

(d) Liquid or frozen egg products identified as whole eggs and prepared other than in natural proportions, as broken from the shell, shall have a total egg solids content of 24.20 percent or greater.

* * * * *

Done at Washington, DC, on: October 16, 1987.

J. Patrick Boyle,

Administrator.

[FR Doc. 87–25492 Filed 11–3–87; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 984

Walnuts Grown in California; Proposed Free, Reserve, and Export Percentages for the 1987–88 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action gives notice of a proposal to establish a free percentage of 60 percent, a reserve percentage of 40 percent, and an export percentage of 65 percent of the reserve percentage for merchantable California walnuts handled during the 1987–88 season, which began August 1, 1987. This action is taken under the marketing order for walnuts grown in California and is intended to avoid unreasonable fluctuations in supplies and prices in view of a projected large 1987 walnut crop.

DATES: Comments must be received by November 19, 1987.

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

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 984 (7 CFR Part 984), as amended, regulating the handling of walnuts 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 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 59 handlers of walnuts subject to regulation under the walnut marketing order, and approximately 8,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $100,000, 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 walnuts may be classified as small entities.

This proposal would require handlers of California walnuts to withhold as a reserve, from the normal domestic market, 40 percent of merchantable walnuts received from growers during the 1987–88 crop year. The remaining 60 percent of the crop could be sold by handlers in any market. The 1987 orchard-run production is projected at a record large 520 million inshell pounds, which is 44.4 percent larger than last year's 360 million pound crop and 11.2 percent larger than 1982's previous record crop of 467.8 million inshell pounds.

Of the 40 percent reserve, 65 percent would be available for export and should provide adequate supplies to meet both inshell and shelled export demand. The remainder of the reserve could be transferred to the salable category at a later date if it is found that the salable supply is insufficient to satisfy 1987–88 domestic trade demand, including desirable carryover requirements for use during the 1988–89 crop year. Otherwise these reserve walnuts would be disposed of in secondary outlets such as walnut oil or animal feed. Handlers could also obtain reserve credit for disposing of substandard quality walnuts for oil or animal feed.

While this proposed rule may restrict the amount of walnuts which handlers may sell in normal domestic and export markets, the free and reserve percentages are intended to lessen the impact of the projected oversupply situation facing the industry and to promote stronger marketing conditions, thus avoiding unreasonable fluctuations in prices and supplies and improving grower returns.

Pursuant to § 984.48 of the order, the Board based its recommendation for free, reserve, and export percentages of 60 percent, 40 percent, and 65 percent of the reserve, respectively, on the inshell and shelled domestic and export trade demands for the current marketing year. These trade demands are the amounts of inshell and shelled walnuts expected to be sold in normal domestic or export market outlets, respectively. The Board considers the trade carryover, import prices, competing nut supplies, and other factors when determining domestic and export trade demands.

The total supply subject to regulation is 222 million kernelweight pounds. Estimated domestic trade demand was adjusted to account for supplies of certified walnuts carried in from the 1986–87 marketing year and for supplies deemed desirable to be carried out on July 31, 1988, for early season domestic use next marketing year until the 1988 crop is available for market. After adjusting for inventory, the inshell

domestic trade demand is calculated at 20 million kernelweight pounds and the shelled domestic trade demand is calculated at 113 million kernelweight pounds. Thus, total domestic demand is calculated at 133 million kernelweight pounds. The proposed free percentage of 60 percent is expected to meet those needs.

The remaining 40 percent (81.9 million kernelweight pounds) of the 1987 crop marketable production would be withheld by handlers to meet their reserve obligations. Of the 40 percent held as reserve, 65 percent (53.3 million kernelweight pounds, the export trade demand) has been designated for export outlets. The remainder of the reserve (28.6 million kernelweight pounds) could be transferred to the salable category at a later date if it is found that the salable supply is insufficient to satisfy 1987–88 domestic trade demand, including desirable carryover requirements for use during the 1988–89 crop year.

The United States Department of Agriculture's Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders specify that reserve pool programs must make at least 110 percent of recent years' sales available to primary markets each season. This requirement would be met. The amount to be made available represents 120 percent of the 1983 record large shipments.

The Board used the estimates given in the table below in making its recommendation for the 1987–88 marketing year. Weight figures for inshell walnuts are converted to their equivalent shelled kernelweights.

	Inshell (1,000 lbs)	Conversion factor (percent)	Kernel weight (1,000 lbs)
Supply:			
1. Orchard-Run Production	520,000		
2. Less: Miscellaneous Farm Use	2,000		
3. Commercial Production	518,000	40	207,200
4. Plus:			
Uncertified Carryin Inshell	69	45	31
Uncertified Carryin Shelled			7,208
5. Total Merchantable Supply			214,439
6. Plus: Substandard Creditable for Reserve			8,000
7. Total Supply Subject to Regulation			222,439
Demand:			
8. Inshell Demand	40,000		
9. Plus: Desirable Carryout	4,000		
10. Less: Certified Carryin	583		
11. Adjusted Inshell demand	43,417	45	19,538
12. Shelled Demand			103,000
13. Plus: Desirable Carryout			28,000
14. Less: Certified Carryin			18,020
15. Adjusted Shelled Demand			112,980
16. TOTAL DEMAND (Item 11 + Item 15)			132,518
17. Free Percentage (Item 16 ÷ Item 7 × 100) (percent)			60
18. Reserve Percentage (100% − Item 17 × 100) (percent)			40
Determination of Export Percentage:			
19. Reserve Available for Export (Item 5 − Item 16)			81,921
20. Export Demand:			
Inshell	91,740	45	41,283
Shelled			12,000
Total			53,283
21. Percent of Reserve for Export (Item 20 ÷ Item 19 × 100) (percent)			65

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

Interested persons are invited to submit their views and comments on this proposal. A 15-day comment period is considered adequate because the current crop year to which the proposed percentages would be applicable began on August 1, 1987. Early fall is usually an active time for walnut sales. Handlers and buyers should know as soon as possible the extent to which volume regulations would be put into effect this crop year.

List of Subjects in 7 CFR Part 984

Marketing agreements and orders, Walnuts, California.

For reasons set forth in the preamble, 7 CFR Part 984 is proposed to be amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 984 continues to read as follows:

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

2. Add a new section consisting of § 984.231 to read as follows:

§ 984.231 Free, reserve, and export percentages for California walnuts during the 1987-88 marketing year.

The free, reserve, and export percentages for California walnuts during the marketing year beginning August 1, 1987, shall be 60 percent, 40 percent, and 65 percent of the reserve, respectively.

Dated: October 29, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 87-25563 Filed 11-3-87; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1240

Honey Research, Promotion and Consumer Information Order; Proposed Change of Refund Application Dates

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would change the dates by which applications for assessment refunds from honey producers, producer-packers and importers must be filed with the National Honey Board, hereinafter referred to as the Board. The proposed change is designed to allow sufficient time to process applications for refunds of assessments paid under the program. The Honey Research, Promotion, and Consumer Information Order and Act require applications to be processed by June and December of each year. To meet this requirement, the proposed application deadline would be April 30 (previously May 31) and October 31 (previously November 30).

DATE: Comments must be received by December 4, 1987.

ADDRESS: 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, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. Comments should refer to 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: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456, telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: The rule is proposed under the Honey Research, Promotion and Consumer Information Order (7 CFR Part 1240)(order). The order is effective under the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 *et seq.*) (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 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. The order issued pursuant to this 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.

The honey industry is made up of many small entities, and several larger entitites, which are engaged in the production, importation, and marketing of honey. There are generally three categories of honey producers in the United States: The hobbyist; the part-time beekeeper; and commercial beekeepers. There are about 190,000 hobbyist beekeepers; about 10,000 part-time beekeepers; and about 1,600 commercial beekeepers. Because the Act and the order exempt persons who annually produce or import less than 6,000 pounds of honey, hobbyist beekeepers and a significant number of part-time beekeepers are not required to pay assessments and thus would not be affected by this action.

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 $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The great majority of producers, producer-packers and importers of honey may be classified as small entities.

This proposed rule would change the dates by which honey producers, producer-packers and importers must submit applications for assessment refunds and does not affect their eligibility for refunds. Accordingly, the Administrator of the AMS has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

The information collection requirements contained in Part 1240, including § 1240.117, have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB Control Number 0581–0153 under the provisions of the Paperwork Reduction Act of 1980 (5 U.S.C. 3501 *et seq.*). This proposed rule would not increase the information collection requirement under the Paperwork Reduction Act.

The Act and the order provide that honey producers, producer-packers, and honey importers importing 6,000 pounds of honey or more per year pay an assessment on honey entering channels of commerce in the United States. Honey handlers are required to act as collection agents for honey producers subject to the provisions of the order. The U.S. Customs Service collects the assessments on imported honey. Assessments are paid to the Board, which administers the promotion program.

The order provides that a refund of assessments may be obtained by submitting to the Board documentation of assessments paid and that any demand for a refund is to be made within the time and in the manner prescribed by the Board and approved by the Secretary. The Act and the order stipulate that refunds will be made in June and December.

Section 1240.117(b) of the regulations provides that any producers, producer-packers only for their own production, or importers requesting a refund must mail an application on a prescribed form to the Board within 90 days from the date the assessment becomes payable under the regulations. Pursuant to § 1240.117(d), refund applications may be received until May 31 for refunds payable in June and until November 30 for refunds payable in December. The May and November assessment reports are not due from collection agents until June 15 and December 15, respectively. The Board's refund processing time, therefore, may be limited to 15 days, a period which is insufficient in light of the processing steps required and the number of refund requests which are likely to be submitted.

This action would change the refund application deadlines from May 31 to April 30, and from November 30 to October 31. This proposed action would allow more time for the National Honey Board to verify refund applications by correlating them with monthly assessment reports received from collection agents, and to process the refund payments.

List of Subjects in 7 CFR Part 1240

Honey, Agricultural research, Reporting and recordkeeping requirements, Market development, Consumer information.

For the reasons set forth in the preamble, 7 CFR Part 1240 is proposed to be amended as follows:

PART 1240—HONEY RESEARCH, PROMOTION AND CONSUMER INFORMATION ORDER

1. The authority citation for 7 CFR Part 1240 continues to read as follows:

Authority: Honey Research, Promotion, and Consumer Information Act, Secs. 1–13, 98 Stat. 3115; 7 U.S.C. 4601–4612.

2. Section 1240.117 is amended by revising paragraph (d) to read as follows:

Subpart—General Rules and Regulations

§ 1240.117 Refunds.

* * * * *

(d) *Payment of refunds.* Refunds will be made in June and December only; applications for refunds payable in June must be received by April 30 and applications for payment in December by October 31. For joint application the remittance shall be payable to all eligible producers, producer-packers or importers signing the refund application form.

Dated: October 30, 1987.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 87–25562 Filed 11–3–87; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulation Y; Regulation H; Docket R-0616]

Regulations Regarding Real Estate Investment and Development Activities of Subsidiaries of Holding Company Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Solicitation of public comments.

SUMMARY: The Federal Reserve Board is soliciting comment regarding whether the financial risks to a bank holding company system associated with real estate investment and development activities conducted by subsidiary banks are such that the Board, in acting on applications under the Bank Holding Company Act by bank holding companies to acquire banks or FDIC insured savings banks, should require as a condition of a favorable finding regarding the financial resources and future prospects of the banks involved, that the banks not engage in such activities directly or through a subsidiary. The Board also requests comment on whether nonbank subsidiaries of banks engaged in real estate investment and development activities, as well as real estate projects in which the subsidiary invests, and under certain circumstances, partners or co-venturers with such subsidiaries, should be considered "affiliates" of the bank for purposes of the restrictions on transactions between a bank and its affiliates contained in sections 23A and 23B of the Federal Reserve Act. 12 U.S.C. 371c and 371c–1. Finally, the Board requests comment regarding whether it should establish special capital requirements for real estate subsidiaries of holding company banks pursuant to the International Lending Supervision Act of 1982.

DATE: Comments must be received by December 4, 1987.

ADDRESSES: All comments, which should refer to Docket No. R–0616, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to Room B–2223, 20th & Constitution Avenue, NW., Washington, DC, between 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in Room B–1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: J. Virgil Mattingly, Deputy General Counsel (202/452–3430), Scott G. Alvarez, Senior Counsel (202/452–3583), Legal Division; Roger Cole, Manager (202/452–2618), Division of Banking Supervision and Regulation; or Myron Kwast, Chief, Financial Studies Section, Division of Research and Statistics (202/452–2909), Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired only, Telecommunications Service for the Deaf, Earnestine Hill or Dorothea Thompson, (202/452–3544).

SUPPLEMENTARY INFORMATION

I. Introduction

The Board currently has under consideration a proposal under section 4(c)(8) of the Bank Holding Company Act ("BHC Act") that would authorize bank holding companies and their nonbank subsidiaries, including nonbank subsidiaries of holding company banks where permitted under state law, to engage in real estate investment and development activities within certain prudential limits. (52 FR 543 (1987)). Alternatively, the Board has asked for comment on a proposal to continue to prohibit such activities for bank holding companies and to modify its existing regulations (12 CFR 225.22(d)(2)) so that this prohibition would apply also to nonbank subsidiaries of holding company banks.

As the Board has previously stated, the Board is concerned that real estate investment and development activities involve a significant degree of risk beyond the risks of other activities conducted by banks and bank holding companies. Investments in real estate are often characterized by considerable variations in economic value, returns and cash flow. In addition, real estate investments are generally illiquid, particularly during periods that involve economic stress on the banking system. To the extent that the profitability of a particular real estate investment rests upon hopes for capital appreciation rather than on established operating profits, the risks of the investment become even greater.

In light of these significant risks associated with real estate investment and development activities, the Board has proposed a framework of prudential limitations for the conduct by bank holding companies of real estate activities. The Board is evaluating the public comments received regarding the appropriateness of those limits.

Several of the prudential limits outlined by the Board in its real estate proposal are designed to insulate banks owned by holding companies from the risks associated with real estate investment and development activities conducted by affiliates of the bank. In its proposal, the Board questioned whether a bank may be adequately insulated from the risks associated with such activities conducted by nonbank subsidiaries of the bank, particularly where those nonbank subsidiaries operate with management and employees of the bank. In light of the Board's concerns that it may not be feasible to insulate a bank from the risks associated with real estate investment and development activities conducted through nonbank subsidiaries of the bank, the Board requested comment in its real estate proposal regarding whether the Board should modify its existing regulation (12 CFR 225.22(d)(2)) to prohibit nonbank subsidiaries of holding company banks from conducting real estate investment and development activities and should require that all real estate investment and development activities, if permitted, be conducted only through a nonbank subsidiary held by the bank holding company and not by a subsidiary of a bank. Under the Board's existing regulation, a nonbank subsidiary of a state bank owned by a bank holding company may, without the Board's approval under the Act, conduct any activity that the state bank may conduct directly subject to the limits

imposed by state law on the bank. 12 CFR 225.22(d)(2).

The Board's current proposal under section 4 of the BHC Act does not affect real estate activities conducted directly by banks owned by holding companies. The Board has, however, asked for comment on a proposal to establish special capital requirements for bank holding companies that control such banks to reflect the increased risk to the bank holding company system from such activities.

II. Savings Banks Under the Competitive Equality Banking Act

Recently, the Board has considered a number of applications to form bank holding companies under section 3 of the BHC Act that involve banks and savings banks permitted under state law to engage directly and through subsidiaries in various real estate investment and development activities. In these cases, the Applicants have agreed to limit the real estate activities of the banks and their nonbank subsidiaries, to comply with special, enhanced capital requirements, and to conform their activities to the results of the Board's proposed rulemaking. In these cases, the Board has also taken into account the type and amount of real estate exposure of the bank or subsidiary of the bank engaged in real estate investment and development activities in evaluating the financial factors the Board is required to consider under section 3 of the BHC Act.

The Competitive Equality Banking Act of 1987 ("CEBA") recently enacted by Congress contains certain provisions regarding the nonbanking activities of savings banks. Pub. L. 100-86, 101 Stat. 552. In particular, section 101(d) provides that "a qualified savings bank" that becomes a subsidiary of a savings bank holding company (defined as a bank holding company 70 percent or more of the assets of which are represented by savings banks) may continue to engage in any activity, either directly or through a subsidiary of the savings bank, that the savings bank is permitted under state law to conduct as a state savings bank. 101 Stat. at 561-562 (to be codified at 12 U.S.C. 1842(f)).

The provisions of CEBA do not, however, affect the Board's existing authority, in connection with its analysis of an application under section 3 of the BHC Act, to evaluate the financial and managerial resources and future prospects of the bank holding company and bank involved. In this regard, the Board notes that the Senate Report on CEBA states that, while section 101(d) was intended to allow qualified savings banks to engage in state authorized activities, "[t]he Board would, however, be authorized under its general supervisory authority over bank holding companies and their subsidiaries to prevent unsafe or unsound activities; or to require the bank holding company to maintain higher levels of capital to support such activities." S. Rep. No. 100-19, 100th Cong., 1st Sess. 36 (1987).

Accordingly, the Board requests comment regarding whether, and under what circumstances, the Board should, in acting on applications by bank holding companies to acquire banks or savings banks under section 3 of the BHC Act, limit real estate investment and development activities of holding company banks and their nonbank subsidiaries as a matter of safe and sound banking practice. For example, the Board requests comment on whether to require, as a condition of a favorable finding regarding the financial resources and future prospects of the banks involved in an application under section 3 of the BHC Act, that the real estate development activities be conducted through a nonbank subsidiary of the bank holding company rather than through a subsidiary of the bank or savings bank. The Board seeks comment on whether this requirement would enhance the safety and soundness of the bank holding company organization by insulating the bank more effectively from the risks associated with real estate investment and development activities.

As noted, the Board has asked for comment on whether to establish special capital requirements for bank holding companies that control banks engaged in real estate investment and development activities. The Board seeks comment on whether the Board should provide that a bank holding company not make any additional real estate investments through its bank subsidiary in the event the bank holding company's capital falls below the minimum level set forth in the Board's Capital Adequacy Guidelines or, as discussed below, such special capital levels required by the Board under the International Lending Supervision Act ("ILSA").

III. Sections 23A and 23B of the Federal Reserve Act

The Board also seeks comment regarding whether, in the event the Board decides not to limit the conduct of real estate development activities through nonbank subsidiaries of holding company banks or savings banks, the Board should apply the restrictions of sections 23A and 23B of the Federal Reserve Act to transactions between banks, including savings banks, and such subsidiaries. The Board also requests comment on whether these restrictions should be applied to banks that are not in a holding company system and thus would not be subject to any rules the Board may adopt pursuant to the Bank Holding Company Act to limit the conduct of real estate development activities by nonbank subsidiaries of holding company banks.

In this regard, the Board seeks comment on whether a nonbank subsidiary of a bank that engages in real estate activities as well as real estate projects in which these subsidiaries invest, should be deemed "affiliates" of the bank for purposes of sections 23A and 23B of the Federal Reserve Act. (12 U.S.C. 371c and 371c-1). Section 23A of the Federal Reserve Act provides that the term "affiliate" in that section includes any company that the Board determines by regulation or order to have a relationship with a bank such that transactions between the bank and that company may be affected by the relationship to the detriment of the bank. 12 U.S.C. 371c(b)(1)(E). In the event the Board determines that such a subsidiary is an "affiliate" of the bank for purposes of sections 23A and 23B, covered transactions between the bank and the subsidiary would be limited to 10 percent of the bank's capital and such transactions would be required to be on terms and under circumstances, including credit standards, that are substantially the same, or at least as favorable to such bank, as those prevailing at the time for comparable transactions with or involving nonaffiliated companies. A covered transaction includes an extension of credit by the bank to or for the benefit of an affiliate as well as the purchase by a bank of assets from or for the benefit of an affiliate. 12 U.S.C. 371c(b)(7).

The Board is aware that banks that own real estate investment subsidiaries routinely make extensions of credit to real estate subsidiaries and to projects owned by these real estate subsidiaries of the bank. These transactions would be "covered transactions" for purposes of sections 23A and 23B if the real estate subsidiary and project were deemed to be "affiliates" of the bank. The terms or availability of credit from the bank to these real estate subsidiaries and projects may be directly and substantially affected by the relationship of the real estate subsidiary with the bank to the detriment of the bank. Consequently, the Board is considering whether these subsidiaries and the real estate projects in which they invest should be deemed

"affiliates" of the bank for purposes of sections 23A and 23B.

The Board notes that prior regulatory experience in evaluating the relationship between banks and real estate investment trusts in the 1970s and real estate investments made by thrifts suggests that the ownership of an equity interest in a real estate project often provides a powerful incentive to depository institutions to provide credit to support their real estate projects, particularly at times when credit is not available to the project from other sources due to financial or other difficulties experienced by the project. In this situation, the existence of an equity relationship between the bank or thrift could affect the terms and availability of covered transactions between the bank or thrift and the real estate project to the detriment of the depository institution.

The Board also seeks comment on whether partners, joint venturers and other companies associated with a bank or its real estate subsidiary in a real estate project should be deemed to be affiliates of the bank if these business associates use the proceeds of transactions with the bank to finance a real estate project or the company's participation in a real estate project in which the bank has an equity interest. Under this proposal, these business associates in the bank's real estate activities would not be deemed an affiliate of the bank where transactions with these business associates are limited to transactions that the bank adequately documents are on an arms-length basis and are for a purpose other than use in a real estate project in which the bank has an equity interest.

Transactions with companies associated with the bank in a real estate project may be made in order to support a partner or contractor that is experiencing financial or other difficulties that may jeopardize the completion of a real estate project in which the bank has an equity interest. These transactions may involve terms that are more favorable than otherwise available and may be made when credit is not available to the partner or contractor from another source. These transactions could, under these circumstances, be substantially affected by the bank's relationship with the partner or contractor in the real estate project to the detriment of the bank.

Moreover, one of the primary incentives to the bank in entering into a financing or similar transaction with a partner or contractor associated with the bank in a real estate project may be to benefit the real estate project. Section (a)(2) of section 23A deems any transaction by a member bank with any person to be a "covered transaction" for purposes of section 23A to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, an affiliate of the bank. 12 U.S.C. 371c(a)(2). The Board requests comments on whether, and under what circumstances, these transactions should be subject to the terms of sections 23A and 23B of the Federal Reserve Act in order to protect the integrity of the bank and its credit decisions.

In addition, the Board seeks comment on whether to exclude "covered transactions" between a bank and any real estate subsidiary of the bank and partners, joint venturers or other companies associated with the real estate subsidiary in a real estate project from the provisions of § 250.250 of the Board's regulations. (12 CFR 250.250).

The Board also requests comment on the appropriate period of time to allow banks to conform existing covered transactions with their subsidiaries and real estate partners to sections 23A and 23B, in the event the Board adopts the proposals discussed above.

The Board notes that its determination with respect to member banks under sections 23A and 23B would apply to subsidiaries of nonmember banks by virtue of the provisions of the Federal Deposit Insurance Act. 12 U.S.C. 1828(j)(1).

IV. International Lending Supervision Act

The Board has already requested comment, in connection with its current real estate investment rulemaking under section 4(c)(8) of the BHC Act, on a proposal that would exclude real estate investments as well as related extensions of credit from the calculation of the bank holding company's capital for purposes of applying the Board's Capital Adequacy Guidelines. This would apply to real estate investments made by a real estate subsidiary of the bank holding company or directly by a bank or its subsidiaries, whether the activities are funded from capital provided by the bank holding company or from borrowings by the real estate subsidiaries. The Board has previously asked for comment on whether an adjustment to the bank holding company's capital based on the amount of real estate investment and development activities conducted by subsidiaries of a bank holding company is appropriate in order to address the added risks to the holding company organization from those real estate investment and development activities.

The Board now requests comment regarding whether, in order to address the risks associated with real estate activities conducted in a subsidiary of a holding company bank, the Board should, under the International Lending Supervision Act, impose a specific capital requirement directly on nonbank subsidiaries of holding company banks engaged in real estate investment and development activities. The Board also seeks comment on whether it should impose a specific capital requirement on subsidiaries of holding company banks as an alternative to the proposal discussed above to condition Board approval under section 3 of the BHC Act on termination of real estate activities by subsidiaries of banks that are subsequently acquired by bank holding companies.

In this regard, the International Lending Supervision Act provides that the appropriate federal banking agency may impose specific capital requirements on any affiliate of an insured bank, where the federal banking agency is the appropriate federal banking agency for that affiliate. 12 U.S.C. 3909(a)(2). The International Lending Supervision Act provides that the Board is the appropriate federal banking agency for bank holding companies and all nonbank subsidiaries of the holding company. 12 U.S.C. 3902. The Board solicits public comment on the appropriate levels of capital that such subsidiaries should maintain, consistent with industry norms and the safety and soundness of its affiliate banks. The Board also requests comment on whether the leverage and capital requirements proposed in its December, 1986 real estate development proposal should be applied to these subsidiaries. 52 FR 543, 546–547 (January 7, 1987).

V. Comment Period

The Board has proposed a 30-day comment period on these matters because the issues raised here supplement matters on which the Board has already received extensive public comment in connection with its rulemaking proceeding regarding real estate investment and development activities of bank holding companies. The Board expects that it will be able to act on its real estate rulemaking and the matters raised in this request for comment promptly after the close of the comment period on the matters raised in this notice.

VI. Regulatory Flexibility Act Analysis

This proposal is not expected to have a significant economic impact on a

substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The Board believes that there are not a significant number of small bank holding companies engaged in real estate investment and development activities at this time. As noted, bank holding companies have not previously been permitted to engage in real estate investment and development activities and, while legislation to permit state banks to engage in these activities has been considered in a number of states, these initiatives have been taken only recently. The Board will consider any comment regarding whether, and to what extent, the proposals outlined in this notice would have an impact on small business entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Parts 208 and 225

Banks, banking, Federal reserve system, Holding companies, Reporting and recordkeeping requirements.

For the reasons set out in this notice, and pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(b)), and section 371c(e) of the Federal Reserve Act (12 U.S.C. 371c(e)), the Board proposes to amend 12 CFR Part 225 and 12 CFR Part 208 as follows:

PART 225—[AMENDED]

1. The authority citation for Part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1843(c)(8), 1844(b), 3106, 3108, 3907 and 3909.

2. The Board proposes to amend § 225.13(b)(1) by adding the following at the end of that section:

§ 225.13 Factors considered in acting on bank applications.

* * * * *

(6) * * *

(1) * * * In light of the risks associated with real estate investment and development activities, the Board will, in acting on any application by a bank holding company under section 3 of the BHC Act, require, as a condition of its finding that the banks involved have satisfactory financial resources and future prospects, that real estate investment and development activities not be conducted by any of such banks directly or through a subsidiary, and that such activities be conducted only in a nonbank subsidiary of the bank holding company in accordance with the prudential limitations set forth in § 225.25(b)(25) of this subpart.

* * * * *

3. The Board proposes to amend Appendix A to 12 CFR Part 225 by adding the following at the end of the Appendix:

Appendix A—Capital Adequacy Guidelines for Bank Holding Companies and State Member Banks

* * * * *

Treatment of Investments in Real Estate Investment and Development Activities for the Purpose of Determining the Capital Adequacy of Bank Holding Companies

The Board believes that real estate investment and development activities involve a significant degree of risk beyond other activities conducted by banks and bank holding companies. These risks result from the illiquid nature of real estate; the considerable variation in economic value, returns and cash flow that often characterize investments in real estate; and the greater risks associated with an equity investment as compared to a traditional bank loan.

Based on these supervisory concerns, the Board believes that the amount of real estate investment activities conducted by a bank holding company and any of its direct or indirect bank and nonbank subsidiaries must be considered in evaluating the capital adequacy of the bank holding company. In this regard, the Board believes that a nonbank subsidiary of a holding company bank that is engaged in real estate investment and development activities must be adequately capitalized in order to lessen the risk to the bank holding company organization from the risks of the subsidiary's real estate investment and development activities. The Board believes that a real estate subsidiary of a holding company bank should meet the same capital and leverage requirements that the Board has proposed for direct nonbank subsidiaries of a bank holding company that engage in real estate investment and development activities. For purposes of these calculations, real estate investment activities, including related extensions of credit, shall be defined as in section 25(b)(25) of this part.

PART 208—[AMENDED]

4. The authority citation for Part 208 is revised to read as follows:

Authority: 12 U.S.C. 248, 321–338, 371c, 371c–1, 486, 1814, 3907, 3909, unless otherwise noted.

5. The Board proposes to amend Part 208 by adding a new § 208.15 under the undesignated center heading "Regulations" to read as follows:

§ 208.15 Affiliates under section 23A and B (12 U.S.C. 371c and 371c–1).

(a) For purposes of sections 23A and 23B of the Federal Reserve Act, an affiliate of a member bank includes a company that is:

(1) A subsidiary of such member bank if the subsidiary engages directly or indirectly in real estate investment or development activities as defined in § 225.25(b)(25) of Regulation Y (12 CFR 225.25(b)(25)); and

(2) A partner, joint-venturer or other company otherwise associated in a business relationship with such subsidiary in a real estate investment or development activity as described in § 225.25(b)(25) of Regulation Y, to the extent that the proceeds of any covered transaction between the member bank or its subsidiaries with the partner, joint-venturer or other company are used to finance such real estate investment or development project or the company's participation in such project.

(b) The exemptions provided in the Board's interpretation at § 250.250 of this chapter shall not apply to covered transactions between a member bank and an affiliate defined in paragraph (a) of this section.

(c) A member bank and its subsidiaries shall have six months from the effective date of this section to conform covered transactions between it and a company that becomes an affiliate as a result of this regulation to the requirements of sections 23A and 23B of the Federal Reserve Act.

(d) The terms "subsidiary", "bank", "company", and "covered transaction" used in this section shall have the meanings given in section 23A of the Federal Reserve Act. 12 U.S.C. 371c(b).

Board of Governors of the Federal Reserve System, October 30, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87–25576 Filed 11–3–87; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 332

Powers Inconsistent With Purposes of Federal Deposit Insurance Law

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Extension of deadline for consideration, adoption, and publication of final rule.

SUMMARY: This notice serves to extend the period of time which the FDIC may use under its internal policy statement for the consideration, adoption, and publication of the FDIC's final rule on participation by insured banks in real

estate development and insurance underwriting activities.

DATE: The deadline for final agency action on the proposed rule is extended to December 15, 1987.

FOR FURTHER INFORMATION CONTACT: Pamela E.F. LeCren, Senior Attorney, Legal Division (202) 898-3730, Ken A. Quincy, Chief, Applications Section, Division of Bank Supervision (202) 898-6753, or Daniel M. Gautsch, Examination Specialist, Planning and Program Development Branch, Division of Bank Supervision (202) 898-6912, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The FDIC's Statement of Policy on Development and Review of Rules and Regulations (44 FR 31007 (1979)) states that it is the intention of the FDIC formally to withdraw any proposed regulation on which final action by the Board of Directors has not been taken within nine months from the date the regulation was last published for comment. The FDIC published on June 7, 1985, a proposed amendment to Part 332 of FDIC's regulations governing "Powers Inconsistent with the Purposes of Federal Deposit Insurance Law." (50 FR 23964 (June 7, 1985)). The proposed amendment would, among other things, prohibit insured banks, subject to certain exceptions, from directly engaging in real estate development and insurance underwriting activities and establish certain restrictions on the indirect conduct of such activities.

Pursuant to the FDIC's policy, final action on this proposed regulation should have been taken on March 7, 1986, in order to avoid withdrawal of the proposed rule. Inasmuch as FDIC staff was actively reviewing the June 7, 1985, proposal in the spring of 1986 and due to the then-recent appointments of two members of the FDIC's three member Board of Directors, the Board of Directors determined that additional time was necessary for the staff to complete its review and for the Board of Directors to familiarize itself with the subject matter dealt with by the proposal. As withdrawing the proposal and initiating the rulemaking process anew would have caused unnecessary delay, the Board of Directors determined to extend the deadline for final agency action on the proposed regulation to September 8, 1986. (51 FR 7077 (Feb. 28, 1986)). The Board extended the deadline a second time to March 15, 1987 (51 FR 32336 (September 11, 1986)) in order for the FDIC and the Board of Governors of the Federal Reserve System to attempt to coordinate the final action taken in this rulemaking with any final action taken by the Board of Governors in connection with its solicitation of public comment on real estate activities of bank holding companies and their subsidiaries. (*See* 50 FR 4519 (1985) (solicitation of public comments)).

Since that time, the Board of Governors published a proposed rule on the "Permissibility of Real Estate Investment Activities for Bank Holding Companies and Their District and Indirect Nonbank Subsidiaries" with a public comment due date of February 23, 1987. (51 FR 543 (Jan. 7, 1987)). That comment date was subsequently extended to March 25, 1987. (52 FR 4629 (Feb. 13, 1987)). As additional time was required for FDIC staff to study the Federal Reserve Board's proposal, the comments received in response thereto, and the direction taken by the Board of Governors in response to those comments and the efforts at coordinating final action between the two agencies were still continuing, the Board of Directors determined to extend the deadline for final action on the proposed regulation until September 15, 1987. (52 FR 7442 (March 11, 1987)). As staff efforts to coordinate final action had not produced a uniform regulation by September 15, the Board of Directors extended the deadline for final action until October 30, 1987. (52 FR 35724, September 23, 1987). As the Board of Directors continues to be interested in coming to an agreement with the Federal Reserve Board with respect to the issue of bank and bank holding company involvement in real estate development and negotiations with respect to such involvement continue, the Board of Directors has determined to extend the deadline for actions until December 15, 1987.

By order of the Board of Directors.

Dated at Washington, DC, this 27th day of October, 1987.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-25544 Filed 11-3-87; 8:45 am]

BILLING CODE 6714-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Policy

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule change would permit the Small Business Administration (SBA) to suspend or revoke the privilege of lenders, brokers, dealers and registered holders to sell or otherwise deal in section 7(a) secondary market loan or pool certificates for significant violations of the Rules and Regulations of the secondary market and for certain other offenses. It would also clarify that the disclosure requirements for individual loan certificates and pool certificates apply equally to certificates placed into or used as the backing for a trust, investment pool, mutual fund or any other security. Finally, it would modify the existing regulatory requirements for pool assembler eligibility to require that pool assemblers be regulated by the appropriate regulatory agency, as defined in the Government Securities Act of 1986 (Pulb. L. 99-571, 100 Stat. 3208).

DATE: Comments must be submitted on or before December 4, 1987.

ADDRESS: Comments must be submitted to Edwin T. Holloway, Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Room 800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Allan S. Mandel, Assistant Deputy Associate Administrator for Financial Assistance, (202) 653-6696.

SUPPLEMENTARY INFORMATION: Under the authority of sections 5(f)-5(h) of the Small Business Act (15 U.S.C. 634(f)-(h)) ("Act"), SBA operates a secondary market in SBA guaranteed loan and pool certificates. The process works as follows:

A lender, previously approved by SBA to make guaranteed loans under Section 7(a) of the Act, makes such a loan to a small business. The lender may sell the guaranteed portion of the loan to a secondary market broker-dealer, which then resells the loan to an investor. Alternatively, broker-dealers that are approved by SBA as pool assemblers may form pools backed by the guaranteed portions of several SBA guaranteed loans, and sell certificates representing total or fractional ownership in such pools to investors.

The changes in regulation described in this notice are to enable SBA to carry out its responsibilities to—

Develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations [Section 5(f)(3) of the Act];

Require the seller of a certificate to disclose to a purchaser information on the terms, conditions and yield of the security [Section 5(h)(3) of the Act]; and

Regulate brokers and dealers in this market [Section 5(h)(3) of the Act].

Suspension or Revocation

SBA is amending its regulations to permit the Agency to suspend or revoke

the privilege of lenders, brokers, dealers and registered holders to sell or otherwise deal in loan or pool certificates under certain circumstances.

Section 120.605 would be amended to permit SBA to suspend or revoke the privilege of a lender, broker, dealer or registered holder to sell, purchase, or deal in loans, loan certificates or loan pool certificates if such lender, broker or registered holder commits a significant violation, as determined by SBA, of the Rules and Regulations of the Secondary Market. SBA would also be authorized to suspend or revoke such entities for (1) a significant violation, as determined by SBA, of any of the provisions of the contracts entered into by the parties, including, but not limited to, Standard Forms 1085, 1086, 1088 and 1454 or (2) knowingly submitted false or fradulent information in support of its participation in the Secondary Market to SBA or the FTA. SBA would provide written notice of such determination at least 10 business days prior to the effective date of such determination. The notice would inform the broker, dealer, or registered holder of the opportunity for a hearing pursuant to Part 134 of this Chapter. During the period of any proceedings under Part 134 the action of the SBA would remain in effect.

Subparts G (pooling of SBA guaranteed portions) and H (individual SBA guaranteed portions sold into the secondary market) of Part 120 of this Chapter would be amended to exclude any broker or dealer from selling or otherwise dealing in pool certificates—

If the broker's or dealer's authority to engage in the securities business has been revoked or suspended by a supervisory agency. When such authority has been suspended, the broker or dealer would be suspended by SBA for the duration of the suspension by the supervisory agency.

If the broker or dealer has been indicated or otherwise formally charged with a misdemeanor or felony bearing on its fitness to participate in the market for pool certificates, the broker or dealer may be suspended while the charge is pending. Upon conviction, participation may be terminated.

When the broker or dealer has suffered an adverse final civil judgment, holding that the broker or dealer has committed a breach of trust or violation of law or regulation protecting the integrity of business transactions or relationships, participation in the market for certificates may be terminated.

Under the proposed regulation, SBA could, for any of the reasons stated above, suspend or revoke the privilege of any broker or dealer to participate in this market. SBA would give written notice at least ten business days prior to the effective date of such an action. The notice shall inform the broker or dealer of the opportunity for a hearing pursuant to Part 134 of this chapter. During the period of any proceedings under Part 134 the action of the SBA shall remain in effect.

These regulatory changes are counterparts of the existing regulations on suspension and termination of brokers and dealers in the Small Business Investment Company (13 CFR 107.201(c)(4)) and Development Company (13 CFR 108.505(1)) programs. As such, they would make the regulations of the section 7(a) secondary market consistent on this subject with those of the other two programs.

Disclosure Requirements

Sections 120.713 and 120.809 of this Part 120 presently require a seller of individual loan and pool certificates to disclose to the purchaser information on the terms, conditions and yield of the security as described in the Secondary Market Program Guide. The proposed regulations would clarify that this requirement applies equally to loan or pool certificates placed into or used as the backing for a trust, investment pool, mutual fund or any other security. In such cases the same disclosure information must be provided to investors through the prospectus and any promotional material and any other written description of the security. If loan or pool certificates are placed into or used as the backing for money market funds, the yield calculation on the SBA loan or pool certificate portion of such funds must be calculated according to the methodology and assumptions described in the Secondary Market Program Guide.

SBA and the Public Securities Association have agreed upon a methodology for estimating yields on these securities, pursuant to SBA's responsibilities under section 5(h)(3) of the Act. The methodology for estimating the yield on these securities must be carefully specified because SBA guaranteed loans may be prepaid prior to the scheduled maturity if (1) the borrower defaults and SBA honors its guaranty or (2) the borrower voluntarily prepays. (SBA loans may be prepaid by the borrower without penalty.) The occurrence of either of these events cannot be predicted with certainty. Prepayment has a significant impact upon yield, particularly with certificates priced substantially away from par.

The purpose of the disclosure requirements is to provide investors with a benchmark constant annual prepayment rate (CPR) based upon an analysis of the prepayment history of SBA guaranteed loans. The purpose of the benchmark is twofold: (1) To produce a cash flow yield calculation based upon the past performance of SBA loans and (2) to help investors choose between alternative SBA loan and pool certificates and between SBA loan and pool certificates and alternative investments. The elements that form the disclosure requirements enable investors to know the facts and assumptions used to develop the benchmark cash flow yield estimate.

The proposed regulatory changes are necessary because a mutual fund backed by SBA guaranteed portions is sold in the same marketplace as SBA pool and individual loan certificates. Accuracy and consistency in the quoting of yields are necessary to prevent investor confusion, to maintain an orderly and credible market, and to provide accurate information to investors.

Government Securities Act

Under the authority of the Small Business Secondary Market Improvements Act, enacted in 1984 (98 Stat 329), SBA has required pool assemblers to be (1) regulated by a state or federal financial regulatory agency, (2) regulated by SBA, or (3) a member of the National Association of Securities Dealers (13 CFR 120.703(a)). The passage of the Government Securities Act of 1986 (100 Stat. 3208) established for the first time a Federal Government-wide system for regulation of brokers and dealers who transact business exclusively in government securities or a government securities business combined with business in certain other activities. Accordingly, SBA is revising § 120.703(a) to require pool assemblers to be regulated by the appropriate regulatory agency as defined in section 3(a)(34)(G) of the Securities Exchange Act of 1934 as amended (15 U.S.C. 78c(a)(34)(G)), pursuant to the mandate of the Government Securities Act of 1986.

For purposes of the Regulatory Flexibility Act (5 U.S.C. 605(b)), SBA certifies that this proposed rule is likely to have a significant economic impact on a substantial number of small entities. This action is being taken to ensure that the secondary market for SBA guaranteed loans is operated efficiently, honestly, and openly. Section 5 of the Small Business Act authorizes SBA to develop procedures for the facilitation, administration, and promotion of secondary market operations. The statute requires disclosure of information to purchasers and allows SBA to regulate brokers and dealers. These proposed regulations implement the statuory authority. It is

not possible or feasible to estimate how many of the existing or potential lenders, brokers, dealers, or registered holders are or will be small entities, but it may be safely assumed that of the total universe there will be a larger number of small entities. There are no reporting or recordkeeping requirements created by these proposed regulations. The entities operating in the secondary market, in the nature of things, must operate properly, and the thrust of these proposed regulations is to give SBA the authority to revoke the privilege of participating in the SBA secondary market from a broker or dealer which is acting improperly. There are no Federal rules which duplicate, overlap or conflict with the proposed rule.

There are no significant alternatives since the proposed regulations are consistent with existing SBA regulations on the suspension and termination of brokers and dealers in the Small Business Investment Company and Development Company programs. Further, the Agency must implement the provisions of the Government Securities Act which was effective in July 1987 in regulating brokers and dealers which transact business in government securities.

SBA certifies that this proposed rule does not constitute a major rule for the purpose of Executive Order 12291, since the proposed changes are not likely to result in an annual effect on the economy of $100 million or more.

List of Subjects in 13 CFR Part 120

Loan programs/business, Small business.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA proposes to amend Part 120, Chapter I, Code of Federal Regulations, as follows.

PART 120—BUSINESS LOAN POLICY

1. The authority citation for Part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Section 120.605–1 is amended by revising the first sentence to read as follows:

§ 120.605–1 Transferability.

Except as indicated below in § 120.605–2, certificates issued by the FTA shall be freely transferable. * * *

§ 120.605–2 [Redesignated as § 120.605–3]

2. Section 120.605–2 is redesignated as § 120.605–3, and a new § 120.605–2 is added to read as follows:

§ 120.605–2 Violation of Secondary Market Rules and Regulations.

SBA reserves the right to suspend or revoke the privilege of a lender, broker, dealer or registered holder to sell, purchase, broker, or deal in loans, loan certificates or loan pool certificates if such lender, broker, dealer or registerd holder:

(a) Commits a significant violation, as determined by SBA, of the Rules and Regulations of the Secondary Market (Subparts F, G and H of this Part);

(b) Commits a significant violation, as determined by SBA, of any of the provisions of the contracts entered into by the parties, including, but not limited to, Standard Forms 1085, 1086, 1088 and 1454; or

(c) Knowingly submits false or fraudulent information in support of its participation in the SBA Secondary Market to SBA or the FTA.

SBA shall provide written notice of such determination at least 10 business days prior to the effective date of such determination. Such notice shall inform the lender, broker, dealer, or registered holder of the opportunity for a hearing pursuant to Part 134 of this chapter. During the period of any proceedings under Part 134 the action of the SBA shall remain in effect.

3. Section 120.703 is amended by revising paragraph (a)(1) to read as follows:

§ 120.703 Eligible pool assemblers.

(a) * * *

(1) is regulated by the appropriate regulatory agency as defined in section 3(a)(34)G) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(34)(G)].

* * * * *

§§ 120.705 through 120.712 [Redesignated as §§ 120.706 through 120.713]

4. Sections 120.705 through 120.712 are redesignated as §§ 120.706 through 120.713, and a new § 120.705 is added to read as follows:

§ 120.705 Suspension or revocation of broker or dealer.

(a) In addition to the provisions of § 120.605–2, SBA may exclude any broker or dealer from selling or otherwise dealing in certificates:

(1) If such broker's or dealer's authority to engage in the securities business has been revoked or suspended by a supervisory agency. When such authority has been so suspended, such broker or dealer will be suspended by SBA for the duration of such suspension by the supervisory agency.

(2) If such broker or dealer has been indicted or otherwise formally charged with a misdemeanor or felony bearing on its fitness to participate in the market for certificates, such broker or dealer may be suspended while the charge is pending. Upon conviction, participation may be terminated.

(3) When such broker or dealer has suffered an adverse final civil judgment, holding that such broker or dealer has committed a breach of trust or violation of law or regulation protecting the integrity of business transactions or relationships, participation in the market for certifcates may be terminated.

(b) SBA may, for any of the reasons stated above, suspend or revoke the privilege of any broker or dealer to participate in this market. SBA shall give written notice at least ten (10) business days prior to the effective date of such action. Such notice shall inform the broker or dealer of the opportunity for a hearing pursuant to Part 134 of this Chapter.

(c) Procedures for appealing the decision to suspend or revoke are found in Part 134 of this Chapter. During the period of any proceedings under Part 134 the action of the SBA shall remain in effect.

5. Section 120.713, as redesignated, is revised to read as follows:

§ 120.713 Disclosure requirements.

Prior to any sale, the pool assembler or any subsequent seller of a certificate must disclose to the purchaser, either orally or in writting, information on the terms, conditions and yield as described in the Secondary Market Program Guide. In addition, such information must be provided in writing on the transfer document at the time it is submitted to the FTA. The FTA will, subsequent to the sale, provide such disclosure information in writing to the purchaser. If all or part of a pool certificate is placed into or used as the backing for a trust, investment pool, mutual fund or any other security, this same disclosure information must be provided to investors through the prospectus and any promotional material.

6. Section 120.809 is revised to read as follows:

§ 120.809 Disclosure requirements.

Every registered holder of the guaranteed portion must, prior to any sale, disclose to the purchaser either orally or in writing the terms and conditions and yield of such instrument as described in the Secondary Market Program Guide. In addition, such information must be provided in writing on the transfer document at the time it is

submitted to the FTA. The FTA will, subsequent to sale, provide such disclosure information in writing to the purchaser. If all or part of a certificate is placed into or used as the backing for a trust, investment pool, mutual fund or any other security, this same disclosure information must be provided to investors through the prospectus and any promotional material.

7. Section 120.810 is added to read as follows:

§ 120.810 Suspension or revocation of broker or dealer.

(a) In addition to the provisions of section 120.605-2, SBA may suspend or revoke any broker or dealer from selling or otherwise dealing in certificates:

(1) If such broker's or dealer's authority to engage in the securities business has been revoked or suspended by a supervisory agency. When such authority has been so suspended, such broker or dealer will be suspended by SBA for the duration of such suspension by the supervisory agency.

(2) If such broker or dealer has been indicted or otherwise formally charged with a misdemeanor or felony bearing on its fitness to participate in the market for certificates, such broker or dealer may be suspended while the charge is pending. Upon conviction, participation may be terminated.

(3) When such broker or dealer has suffered an adverse final civil judgment, holding that such broker or dealer has committed a breach of trust or violation of law or regulation protecting the integrity of business transactions or relationships, participation in the market for certificates may be terminated.

(b) SBA may, for any of the reasons stated above, suspend or revoke the privilage of any broker or dealer to participate in this market. SBA shall given written notice at least ten (10) business days prior to the effective date of such suspension or revocation. Such notice shall inform the broker or dealer of the opportunity for a hearing pursuant to Part 134 of this chapter.

(c) Procedures for appealing the decision to suspend or revoke are found in Part 134 of this chapter. During the period of any proceedings under Part 134 the action of the SBA shall remain in effect.

Date: October 19, 1987.

Donald Clarey,

Deputy Administrator.

[FR Doc. 87-25407 Filed 11-3-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-142-AD]

Airworthiness Directives; Aerospatiale Model ATR-42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD), applicable to certain Aerospatiale Model ATR-42 series airplanes, that would require modifying the Digital Flight Data Recorder (DFDR) and Cockpit Voice Recorder (CVR) power supply logic. This proposal is needed to prevent the DFDR and CVR from continuing to operate after an accident, thereby progressively erasing the information recorded before the accident. This condition, if not corrected, could result in possible loss of data that may be used to determine the cause and, thereby, result in design changes that may prevent future accidents.

DATE: Comments must be received no later than December 31, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103). Attention: Airworthiness Rules Docket No. 87-NM-142-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Michael West, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1938. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-142-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), the Civil Aviation Authority of France has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unacceptable design condition which may exist on certain Aerospatiale Model ATR-42 series airplanes.

It has been determined that in the event of an accident, the Digital Flight Data Recorder (DFDR) and Cockpit Voice Recorder (CVR) can continue to operate and, therefore, progressively erase the information recorded before the accident. This condition, if not corrected, could result in possible loss of data that may be used to determine the cause and, thereby, result in design changes that may prevent future accidents.

Aerospatiale issued Service Bulletin ATR42-23-0002, Revision No. 1, dated March 11, 1987, to provide a means of modifying the DFDR and CVR power supply logic to prevent continued operation of the DFDR and CVR beyond five minutes after an accident.

The DGAC has classified this service bulletin as mandatory to preclude possible loss of important data in case of an accident.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation and the

applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require modification of the DFDR and CVR in accordance with the Aerospatiale service bulletin previously mentioned.

It is estimated that 6 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,920.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($320). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR-42 series airplanes, as listed in Service Bulletin ATR42-23-0002, Revision No. 1, dated March 11, 1987, certificated in any category. Compliance is required within one year of the effective date of this AD, unless previously accomplished.

To prevent the loss of recorded information by continued operation of the Digital Flight Data Recorder (DFDR) and Cockpit Voice Recorder (CVR) after an accident, accomplish the following:

A. Modify the DFDR and CVR power supply logic in accordance with Aerospatiale Service Bulletin ATR42-23-0002, Revision No. 1, dated March 11, 1987.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

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

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on October 26, 1987.

Mel Yoshikami,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-25486 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-ACE-10]

Proposed Alteration of VOR Federal Airway V-138; Nebraska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the description of Federal Airway V-138, located in the vicinity of Omaha, NE, by extending V-138 from Lincoln, NE, to Omaha. This action eliminates a break in the airway structure between Lincoln and Omaha. This extension would simplify flight planning, reduce controller workload and save fuel.

DATES: Comments must be received on or before December 18, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Central Region, Attention: Manager, Air Traffic Division, Docket No. 87-ACE-10, Federal Aviation Administration, 601 East 12th Street, Federal Building, Kansas City, MO 64106.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ACE-10." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence

Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of VOR Federal Airway V-138, located in the vicinity of Omaha, NE, by extending it from Lincoln, NE, VORTAC to Omaha VORTAC. This proposed extension has been made possible through negotiations with Offutt Air Force Base RAPCON and Minneapolis, MN, ARTCC. This action would simplify flight planning by eliminating a break in the airway structure between Lincoln and Omaha and reduce controller workload and save fuel by eliminating a circuitous routing between these points. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400-6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

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

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

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

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

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-138 [Amended]

By removing the words "Lincoln. From" and substituting the word "Lincoln;"

Issued in Washington, DC, on October 27, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-25484 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141 and 178

Entry of Consolidated Shipments

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

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations relating to the entry procedures for consolidated shipments of imported merchandise. The Tariff Act of 1930 allows the consignee of imported merchandise to designate a Customs broker to make entry. Small shipments of merchandise having various consignees are more efficiently and effectively handled if consolated into large shipments under a master bill of lading or master air waybill prepared by a foreign freight consolidator which covers the numerous individual packages in the shipment. The foreign freight consolidator usually consigns the consolidated shipment to a freight forwarder, courier service or other party in the U.S. This consignee is normally not the same consignee identified on the individual bills of lading or individual air waybills which make up the master bill of lading or master air waybill. When the consignee named in the master bill of lading or master air waybill appoints a broker of its own choosing to make entry, the actual consignees of the merchandise named in the individual bills are often frustrated in two respects. First, the entry is made by a broker not of their choosing and, second, entry is made at a port not of their choosing. The amendment revises the entry procedures to prevent frustration of the wishes of the actual consignees identified on the individual bills. After consideration of comments received on the previous notice concerning this matter, certain modifications have been made to the proposal and it is being republished for further comments.

DATES: Comments must be received on or before January 4, 1988.

ADDRESS: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, Room 2324, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments relating to the information collection aspects of the proposal should be addressed to Customs, as noted above, and also the Office of Information and Regulatory Affairs, Attention: Desk Officer for U.S. Customs Service, Office of Management and Budget, Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Jerry Laderberg, Entry, Licensing, and Restricted Merchandise Branch (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

A Customs broker is a person who is licensed by the Customs Service to transact Customs business on behalf of importers and other persons. As amended in 1983 by Pub. L. 97-446, section 484(a)(1)(C), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)(1)(C)), provides that when an entry of imported merchandise is made, the required documentation shall be filed either by the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a Customs broker. A problem has arisen with respect to the appointment of a broker by consignees of consolidated shipments.

Small shipments of merchandise having various consignees are more efficiently and effectively handled if consolidated into a large shipment. These consolidated shipments, which are usualy packed in containers for movement to the U.S. by vessel or aircraft, have two sets of documents. One set of documents consists of a master bill of lading (for vessel movements) or a master air waybill (for aircraft movements) covering the container and its contents. Individual bills of lading or individual air waybills,

also known as "house" bills of lading or "house" air waybills, comprise the second set of documents. The master bill of lading or master air waybill is prepared by a foreign freight consolidator who ordinarily consigns the container to a freight forwarder, courier service similar party in the U.S. The consignee designated by the foreign freight consolidator is normally not the same consignee identified on the individual bills of lading or individual air waybills which make up the master bill of lading or master air waybill. When the consignee named in the master bill of lading or master air waybill appoints a broker of its own choosing to make entry, the actual consignees of the merchandise named in the individual bills are often frustrated in two respects. First, entry is made by a broker not of their choosing and second, entry is made at a port of entry not of their choosing. Further, additional expenses may be incurred.

To prevent the foregoing situation from happening, a notice was published in the **Federal Register** on December 24, 1985 (50 FR 52532), proposing to amend § 141.11, Customs Regulations (19 CFR 141.11), relating to evidence of the right to make entry for importations by common carrier, by adding a new paragraph (c) covering consolidated shipments. The proposal provided that in the case of consolidated shipments by common carrier, entry would not be made by a broker appointed by the consignee named in the master bill of lading or master air waybill if (1) a consignee on any one of the individual bills of lading or individual air waybills which make up the master bill of lading or master air waybill has designated another broker to make entry, or (2) any one of the individual bills of lading or individual air waybills indicates that entry will be made by the actual owner or purchaser.

If entry is made by a broker appointed by the consignee named in the master bill of lading or master air waybill, the broker would submit with the entry filed with Customs a signed statement to the effect that none of the individual bills of lading or individual air waybills which make up the master bill of lading or master air waybill have: (1) Designated a broker, or a different broker from the one identified in the master bill of lading or master air waybill; or (ii) indicated that entry will be made by the actual owner or purchaser; or (iii) specified that entry is to be made at a different port of entry. The statement may be stamped, typed or printed on the entry documentation provided to Customs. It would not be treated as a missing document for which a bond may be provided (See § 141.66, Customs Regulations (19 CFR 141.66)). If the signed statement is not submitted, separate entry would be made for each package in the consolidated shipment by the importer of record or its broker, as appropriate. Shipments for which no entry is made would be placed in general order pursuant to § 4.37, Customs Regulations (19 CFR 4.37), after the expiration of the lay order period. (See § 127.1, Customs Regulations (19 CFR 127.1)).

Because the proposed amendment applies only to consolidated shipments, it would not apply to those aspects of express delivery operations, courier service operations, or similar delivery operations that do not involve consolidated shipments, or delivery operations that do not use individual house bills of lading or air waybills. Now would the procedures apply to any shipment where the shipper contractually agrees that the carrier is the consignee and may appoint a broker of its own choosing to make entry.

Discussion of Comments

Twenty-eight comments were received in response to the original notice proposing these changes. A discussion of these comments and our responses follows.

Comment: Two commenters claimed that there was no factual basis upon which Customs issued the proposal. Specifically, the commenters disagree with Customs statement in the notice that consignees are often frustrated when entries are made by a broker, or at a port of entry not chosen by the consignees, and that additional expenses may be incurred.

Response: Customs continually receives complaints from brokers who are being consistently denied business from their clients when shipments are entered without either the broker or the broker's client being contacted when a shipping document specifically directed that they be contacted. It is a real problem for both importers and brokers. Customs believes that section 201 was never intended to frustrate an importer in choosing his own broker. We believe that a problem exists and that it was fairly stated in the notice.

Comment: Several courier services commented that people use international air couriers because they want one courier system to take full responsibility for all services required to move shipments from the sender to the addressee. Door-to-door service necessarily includes entering the shipment. Another commenter pointed out that the preamble to the notice states that the rule will not apply where the shipper contractually agrees that the carrier is the consignee and the carrier may appoint a broker of its own choosing to make entry; but it is not so stated in the rule.

Response: We agree. The rule has been revised to include language which allows the foreign shipper to contractually agree that the carrier is the consignee for Customs purposes and may appoint a broker.

Comment: Many comments were received concerning the use of the word "timely" in § 141.11(c). Commenters noted that Customs has not specifically provided either the manner or the number of times which the designated broker must be contacted, or how long the carrier must wait before concluding that the designated broker has failed to timely respond. There were numerous suggestions on the length of time believed to be "timely". Others commented that Customs enforcement of any time requirement would be virtually impossible because consolidators would merely attest that they unsuccessfully had attempted to contact the broker by adding a "boiler plate" certification. Others commented that if the importer has designated a broker to act on his behalf, then there should be no interference in that selection process.

Response: After extensive consideration, Customs has concluded that the provision to allow the appointment of a broker by the consignee named in the master bill of lading or master air waybill contrary to the house bill or house air waybill consignee's specific designation, when the party does not "timely respond" should be removed from the rule. The purpose of the amendment was to ensure that importers' specific instructions on their shipping documents were honored by carriers. Since Customs recognizes this as the problem to be corrected, allowing the carrier to appoint its own broker after a period of time would frustrate that purpose. The law gives consignees, without any restriction, the right to appoint a broker of their choice. The appointment by the consignee on the house bill should be respected without any exception. Accordingly, the rule has been modified to require the merchandise to be placed in general order if the designated broker does not respond to Customs request to make entry of the shipment.

Comment: Several commenters believe that no sanctions exist if there is a false declaration by the consignee named in the master bill of lading or master air waybill.

Response: Section 592(a)(1)(A), Tariff Act of 1930, as amended, (19 U.S.C. 1592(a)(1)(A)), states that without regard as to whether or not the U.S. is or may be deprived of lawful duties, no person may enter, introduce, or attempt to enter or introduce any merchandise into the commerce of the U.S. by means of any document, written or oral statement, or act which is material and false, or any omission which is material, or, as stated in 19 U.S.C. 1592(a)(1)(B), may aid or abet any other person to violate subparagraph (A). Further, a broker who is involved in the transaction would be subject to sanctions under section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641).

Comment: One commenter discussed the legislative history of Pub. L. 97–446 in which the sponsors of section 201 made statements in a letter to Congressman Bill Frenzel that there was no intention that a courier service would be prevented from using a broker of its own choosing to make entries for merchandise entrusted to it for carriage.

Response: The explanatory material contained in the proposal clearly states that the amendments are not meant to apply to "those aspects of express delivery operations, courier service operations or similar delivery operations that do not involve consolidated shipments, or delivery operations that do not use individual house bills of lading or air waybills." Also, the notice stated that "nor would it apply to any carrier where the shipper contractually agrees that the carrier is the consignee and may appoint a broker of its own choosing to make entry." We agree with those who suggested that limitations be expressly included in the rule and have made this addition.

Comment: One commenter made an extensive legal argument concerning the meaning of the term "consignee" and cited a number of court cases which were all decided before enactment of Pub. L. 97–446. It was argued that the term "consignee" was not given a new meaning by section 201 of Pub. L. 97–446; it only restricted the legal right of the consignee who cannot qualify as an importer of record to make entry himself. He states, "after 1983, the consignee was required to retain a broker to clear shipments; an unlicensed consignee may not do the paperwork." He continues, "it appears legally impossible for Customs to divest the consignee named in the airlines' documentation (either air waybill or carrier certificate) of his legal right to make entry."

Response: It is noted that section 201 of Pub. L. 97–446 introduced the terms "owner or purchaser" into 19 U.S.C. 1484 without defining them. Customs expanded the expression "owner or purchaser" in Customs Directive 3530–02 (November 6, 1984), to include practically any party with an interest in the goods except a nominal consignee. Since there are no statutory definitions, it is not improper for Customs to define those terms in the context of the intent of the legislation. Customs believes that § 201 was never intended to frustrate an importer's choice of a broker when it gave the consignee the right to appoint a broker.

Comment: One commenter urged that a 6 to 9 month lead time be provided before implementation of any final rule to allow carriers sufficient time to order new bills of lading, airway bills, and other shipping documents incorporating new provisions. This will allow them time to use up their existing stocks of documents.

Response: Inasmuch as the proposal provides that "the required statement may be stamped, typed, or printed on the entry documentation provided to Customs", existing stocks can easily be used by merely rubber-stamping them.

Comment: One comment interprets the proposal as depriving an importer of the right to designate his own broker in connection with shipments arriving without his prior knowledge. It is stated that permitting consolidators who are consignees on the master bill of lading or master air waybill to designate a broker for entry purposes where none has been designated by the shipper-consignee will lead to abuses of this privilege. The commenter states that having entries prepared for the account of a consignee who has not designated a specific broker may expose the importer to Customs penalties, including penalties under 19 U.S.C. 1592, because of unauthorized declarations made by the broker designated by the consolidator.

Response: Instead of depriving an importer of the right to designate his broker, the proposal would protect that right where the importer is concerned enough to arrange for the designation on shipping documents. Where no broker has been designated by the shipper or U.S. importer, the consignee on the master bill of lading or master air waybill clearly has the right to appoint a broker under section 201 of Pub. L. 97–446. Concerning the commenter's last statement, an entry cannot be prepared for the account of a consignee who has not designated a specific broker because the broker could not have a power of attorney from the consignee under those circumstances. Accordingly, an entry prepared by a broker under authority from a consignee who is not the owner or purchaser must make the entry in his name as importer of record, thereby obligating him and his bond for Customs duties, penalties, and liabilities.

Comment: A commenter stated that the rule is not clear and suggested that it be changed to stress that clearances by a broker named by the consignee in the master bill of lading must be in the name of the appointed broker and not in the name of the consignee in the master air waybill. It also asked if the consignee in the master air waybill may appoint a broker for the balance of the consolidated shipment when the shipments are separated.

Response: Amended 19 U.S.C. 1484 provides that the importer of record can only be one of three parties; owner, purchaser, or licensed broker. If the owner or purchaser is not appointing the broker to make entry, then the broker appointed by the consignee must act as importer of record. This need not be mentioned in the rule. Customs position is that once an individual shipment is removed from the consolidated shipment, the consolidated shipment is broken and the consignee named in the master bill of lading no longer has any power to appoint the broker for the remaining individual shipments. Each shipment constitutes a separate shipment for which separate entry must be made.

Comment: One commenter suggested that the final rule specifically state that door-to-door courier, express, or overnight delivery services be defined.

Response: Any definition at this time may prove to be obsolete in the near future, given the rapidly changing state of the courier and air carrier business.

Comment: It is suggested that the rule should also indicate that the master bill consignee's appointment of a broker may not be made where the house bill consignee ("owner or purchaser") has given notice to the break bulk agent (master bill consignee) that a particular broker is to be used for clearance of its shipments. It is noted that any names or designations that appear on the house bills were placed there by the exporter or his agent and that while many importers request that the goods be cleared by the broker that they indicate on the house bills as the party to notify, this information often fails to appear on the bills when executed by a clerk in the country of exportation. Also, the shipper or his agent will indicate a party of his own choosing to be notified, regardless of any contrary instructions of the ultimate consignee.

Response: This comment illustrates the inability of American importers to have their foreign shippers, their foreign

shippers' agents, and common carriers honor their designations of agents in the U.S. We do not believe it is beneficial to require the consignee on the master bill of lading or master air waybill to certify to Customs that it is not aware that the individual importer stated in any shipping documents, *or otherwise*, or desired that the consignee not appoint a broker of his own choosing. This would be a nightmare for Customs to enforce, especially when it is claimed that the consolidator "knew from past experience" that the consignee used a specific broker. Instead, the rule provides a workable method to carry out the U.S. Importers' desires.

Comment: One commenter objected to the material in the last paragraph of the preamble to the notice which states that the amendment will not apply where the shipper contractually agrees that the carrier is a consignee and may appoint a broker of its choosing to make entry. He suggested that consideration be given to the terms of shipment, that is, whether such terms are "all free" (landed or delivered with all duty, freight, and clearance charges paid). Because the house bill consignee is under such circumstances only remotely related to the Customs entry transaction due to the overseas shipper still being the owner at the time the goods "crossed the Customs line", the shipper can appoint the carrier as agent for the purpose of making entry using the master bill consignee and his broker as sub-agents. In other words, the commenter urged that if Customs wishes to retain that exception it should be limited to "all free" shipments and, for sake of clarity, the preamble language should be incorporated in the final rule.

Response: We disagree. We doubt whether in an "all free" shipment the American importer would ever have any interest in forcing the foreign shipper to specify a particular broker or notify a party to make entry in the U.S. Further, if the carrier has enough influence to have foreign shippers agree that it can appoint its own brokers to make entry, then Customs should not interfere inasmuch as section 201 of Pub. L. 97-466 gives the consignee that right.

Comment: It was commented that the proposal does not ensure that the entry will be made at the port of the importer's choosing and suggested that when the individual bills of lading or air waybills indicate that the shipment is to be transported to a specific port of entry for Customs clearance, it be honored by the consolidator/consignee in the same manner as the designation of a specific broker.

Response: We agree and the appropriate language has been added to the rule.

Comment: One commenter suggested the elimination of the requirement that a specific statement must appear on the entry, signed by the consignee on the master bill of lading where such consignee is filing the entry, that none of the huge bills of lading or air waybills of lading making up the master bill of lading designates a broker or actual owner who is to file the Customs entry. Instead, the commenter suggested that the regulations simply contain the prohibition against the filing of an entry in contravention of a specific designation contained in the house bills or air waybills. The commenter believes that the language pertaining to this requirement should be eliminated as it only increases an administrative burden without markedly increasing the effective enforcement of the proposed regulation.

Response: We do not agree. The affirmative statement required of the consignee performs two functions. It provides the basis for taking sanctions against the consignee for a false statement under 18 U.S.C. 1001 and under 19 U.S.C. 1592, and it obviates the necessity for Customs officers to leaf through all of the documents in each consolidated shipment to ensure that no designations have been made. The suggestion, if adopted, would put importers essentially in the same position as now and create new administrative burdens for Customs.

Conclusion

After careful consideration of all the comments received and further review of the matter, it has been determined to republish the proposal with the modifications noted and to allow interested persons an additional opportunity to submit comments on the proposal. Commenters on the original proposal need not resubmit their comments. They will be reconsidered along with any new comments received in response to this notice.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are submitted timely to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2324, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collection of information requirements contained in § 141.11(c) are subject to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501) and have been cleared by the Office of Management and Budget (OMB). Accordingly, Part 178, Customs Regulations (19 CFR Part 178), which lists the information collections contained in the regulations and the control numbers assigned by OMB is being amended to include OMB control number 1515-0150.

Drafting Information

The principal author of this document was Harold M. Singer, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs officers participated in its development.

List of Subjects

19 CFR Part 141

Customs duties and inspection, Imports, Brokers.

19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collection of information.

Proposed Amendment

It is proposed to amend Parts 141 and 178, Customs Regulations (19 CFR Parts 141, 178), as set forth below.

PART 141—ENTRY OF MERCHANDISE

1. The general authority citation for Part 141, Customs Regulations (19 CFR Part 141), would continue to read as set forth below:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. It is proposed to amend § 141.11 by adding a new paragraph (c) to read as follows:

§ 141.11 Evidence of right to make entry for importations by common carrier.

* * * * *

(c) *Consolidated shipments by common carrier.*

(1) In the case of consolidated shipments by common carrier, entry shall not be made by a broker appointed by the consignee named in the master bill of lading or master air waybill if a consignee on any one of the individual bills of lading or individual air waybills which make up the master bill of lading or master air waybill, has designated on the individual bills of lading or individual air waybills another broker to make entry, or any one of the individual bills of lading or individual air waybills indicates that entry will be made by the actual owner or purchaser, or that entry is only to be made at a different port of entry.

(2) If entry is made by a broker appointed by the consignee named in the master bill of lading or master air waybill, the broker shall submit with the entry a signed statement to the effect that none of the individual bills of lading or individual air waybills which make up the master bill of lading or master air waybill have:

(i) Designated a broker or a different broker from the one identified in the master bill of lading or master air waybill; or

(ii) Indicated that entry will be made by the actual owner or purchaser or;

(iii) Specified that entry is to be made at a different port of entry.

The required statement may be stamped, typed, or printed on the entry documentation provided to Customs. This signed statement shall not be treated as a missing document for which a bond may be provided (See § 141.66 of this Chapter). If the signed statement is not submitted, separate entry shall be made for each individual shipment in the consolidated shipment by the importers of record or their brokers, as appropriate. Shipments for which no entry is made will be placed in general order pursuant to § 4.37 of this Chapter, after the expiration of the lay order period.

(3) The procedures set forth in paragraphs (c)(1) and (c)(2) of this section are not applicable in any of the following situations:

(i) The express delivery, courier service, or similar delivery operation does not involve consolidated shipments; or

(ii) The express delivery, courier service, or similar delivery operation does not use individual house bills of lading or air waybills; or

(iii) The shipper has contractually agreed for a particular shipment that the carrier is the consignee and has the right to appoint a broker of its own choosing to make entry; or

(iv) The shipper has paid a fee which includes Customs entry and clearance in the U.S.

PART 178-APPROVAL OF INFORMATION COLLECTON REQUIREMENTS

1. The authority citation for Part 178 would continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501 *et seq.*

2. It is proposed to amend § 178.2 by inserting the following in the appropriate numerical sequence according to the section number under the columns indicated:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB control No.
§ 141.11(c)	Entry of consolidated.	1515-0150 shipments by common carrier
* * * * *		

Michael H. Lane,

Acting Commissioner of Customs.

Approved: October 21, 1987.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 87-25470 Filed 11-3-87; 8:45 am]

BILLING CODE 4820-02-M

OFFICE OF INDEPENDENT COUNSEL

28 CFR Part 700

Production or Disclosure of Material or Information of the Office of Independent Counsel

AGENCY: Office of Independent Counsel.

ACTION: Proposed rule.

SUMMARY: The Office of Independent Counsel proposes to amend Title 28 of the Code of Federal Regulations by adding Chapter VII, consistng of Part 700, Subpart A (Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974) and Subpart B (Exemption of the Office of Independent Counsel's Systems of Records Under the Privacy Act). Subpart A relates to individual access to records pursuant to the Privacy Act and the obligations of the Office of Independent Counsel to assure the security, accuracy and completeness of the records. Subpart B exempts the Office of Independent Counsel's systems of records entitled "General Files System of the Office of Independent Counsel (OIC/001)" and "Freedom of Information Act/Privacy Act Files (OIC/002)." The records contained in these systems related to official investigations and to internal policy decisions. The exemption is necessary to prevent delay or interference with the Office's ongoing criminal investigation and to protect that investigation. It is also necessary to protect the privacy of third parties and the identities of confidential sources involved in the investigation. The exemption will help the Office's investigation to proceed more expeditiously and effectively.

DATES: Submit any comments by December 4, 1987.

ADDRESS: Address all comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Pamela Krems, 202-383-8989.

SUPPLEMENTARY INFORMATION: The Office of Independent Counsel operates pursuant to two distinct and separate sources of authority. On December 4, 1986, Attorney General Edwin Meese III filed an application for appointment of an Independent Counsel with the Division for the Purpose of Appointing Independent Counsels of the United States Court of Appeals for the District of Columbia Circuit. On December 19, 1986, the Special Division of the Court of Appeals filed an order appointing Lawrence E. Walsh as Independent Counsel in the Iran/Contra matter. Order Appointing Independent Counsel, *In re Oliver L. North, et al.*, Div. No. 86-6 (Dec. 19, 1986).

On March 5, 1987, Attorney General Meese issued a regulation that created an "Office of Independent Counsel: Iran/Contra" and provided that office with the same jurisdiction and powers that it already possessed under the Ethics in Government Act, 28 U.S.C. 591-598, and the December 19, 1986 court order appointing Independent Counsel Walsh. 52 FR 7270 (Mar. 10, 1987), 9241 (Mar. 23, 1987) (to be codified at 28 CFR Parts 600 and 601). The "Office of Independent Counsel" and the "Office of Independent Counsel: Iran/Contra" are in actuality one and the same office. This proposed regulation is issued by Independent Counsel under both grants of authority.

In the notice section of today's **Federal Register**, the Office of Independent Counsel provides a description of the "General Files System of the Office of Independent Counsel (OIC/001)" and "Freedom of Information/Privacy Act Files (OIC/002)."

This order relates primarily to individuals rather than to small business entities. However, as required by the Regulatory Flexibility Act, 5 U.S.C. 601-612, the Office hereby states that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 700

Privacy.

Dated: October 29, 1987.

Lawrence E. Walsh,

Independent Counsel.

For the reasons set forth in the preamble, and pursuant to the authority vested in me by the Ethics in Government Act, 28 U.S.C. 591-598, the December 19, 1986 Court order, and the authority delegated to me by the Attorney General pursuant to the Attorney General's regulation issued on March 5, 1987, 52 FR 7270 (Mar. 10, 1987), 9241 (Mar. 23, 1987), and 5 U.S.C. 552a, Title 28 of the Code of Federal Regulations is proposed to be amended by adding Chapter VII—*Office of Independent Counsel,* consisting of Part 700, to read as follows:

CHAPTER VII—OFFICE OF INDEPENDENT COUNSEL

PART 700—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION OF THE OFFICE OF INDEPENDENT COUNSEL

Subpart A—Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974

Sec.
700.10 General provisions.
700.11 Request for access to records.
700.12 Responses to requests for access to records.
700.13 Form and content of Office responses.
700.14 Classified information.
700.15 Records in exempt systems of records.
700.16 Access to records.
700.17 Fees for access to records.
700.18 Appeals from denials of access.
700.19 Preservation of records.
700.20 Requests for correction of records.
700.21 Records not subject to correction.
700.22 Request for accounting of record disclosures.
700.23 Notice of subpoenas and emergency disclosures.
700.24 Security of systems of records.
700.25 Use and collection of social security numbers.
700.26 Employee standards of conduct.
700.27 Other rights and services.

Subpart B—Exemption of the Office of Independent Counsel's Systems of Records—Limited Access

Sec.
700.31 Exemption of the Office of Independent Counsel's Systems of Records—Limited Access

Authority citation: 5 U.S.C. 552a.

PART 700—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION OF THE OFFICE OF INDEPENDENT COUNSEL

Subpart A—Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974

§ 700.10 General provisions.

(a) *Purpose and scope.* This subpart contains the regulations of the Office of Independent Counsel implementing the Privacy Act of 1974, 5 U.S.C. 552a. The regulations apply to all records that are contained in systems of records maintained by the Office of Independent Counsel and that are retrieved by an individual's name or personal identifier. These regulations set forth the procedures by which an individual may seek access under the Privacy Act to records pertaining to him, may request correction of such records, or may seek an accounting of disclosures of such records by the office.

(b) *Transfer of law-enforcement records.* The head of the Office, or his designee, is authorized to make written requests under 5 U.S.C. 552a(b)(7) for transfer of records maintained by other agencies that are necessary to carry out an authorized law-enforcement activity of the Office.

(c) *Definitions.* As used in this subpart, the following terms shall have the following meanings:

(1) "Agency" has the meaning given in 5 U.S.C. 551(1) and 5 U.S.C. 552a(a)(1).

(2) "Record" has the same meaning given in 5 U.S.C. 552a(a)(4).

(3) "Request for access" means a request made pursuant to 5 U.S.C. 552a(d)(1).

(4) "Request for correction" means a request made pursuant to 5 U.S.C. 552a(d)(2).

(5) "Request for an accounting" means a request made pursuant to 5 U.S.C. 552a(c)(3).

(6) "Requester" means an individual who makes either a request for access, a request for correction, or a request for an accounting.

(7) "System of records" means a group of any records under the control of the Office from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to that individual.

§ 700.11 Request for access to records.

(a) *Procedure for making requests for access to records.* An individual may request access to a record about him by appearing in person or by writing the Office. A requester in need of guidance in defining his request may write to the FOIA/PA Officer, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, D.C. 20004. Both the envelope and the request itself should be marked: "Privacy Act Request."

(b) *Description of records sought.* A request for access to records must describe the records sought in sufficient detail to enable Office personnel to locate the system of records containing the record with a reasonable amount of effort. Whenever possible, a request for access should describe the nature of the records sought, the date of the record or the period in which the record was compiled, and the name or identifying number of the system of records in which the requester believes the record is kept.

(c) *Agreement to pay fees.* The filing of a request for access to a record under this subpart shall be deemed to constitute an agreement to pay all applicable fees charged under § 700.17 up to $25.00. The Office shall confirm this agreement in its letter of acknowledgment to the requester. When filing a request, a requester may specify a willingness to pay a greater amount, if applicable.

(d) *Verification of identity.* Any individual who submits a request for access to records must verify his identity in one of the following ways, unless the notice published in the **Federal Register** describing the relevant system of records provides otherwise:

(1) Any requester making a request in writing must state in his request his full name, current address, and date and place of birth. In addition, a requester must provide with his request an example of his signature, which shall be notarized. In order to facilitate the identification and location of the requested records, a requester may also, at his option, include in his request his Social Security number.

(2) Any requester submitting a request in person may provide to the Office a form of official photographic identification, such as a passport or an identification badge. If a requester is unable to produce a form of photographic identification, he may provide to the Office two or more acceptable forms of identification (such as a driver's license or credit card) bearing his name and address.

(e) *Verification of guardianship.* The parent or guardian of a minor (or the guardian of a person judicially determined to be incompetent) who submits a request for access to the records of the minor or incompetent must establish: (1) His own identity and the identity of the subject of the record, as required in paragraph (d) of this section, (2) that he is the parent or guardian of the subject of the record, which may be proved by providing a copy of the subject's birth certificate showing parentage or by providing a court order establishing the guardianship, and (3) that he seeks to act on behalf of the subject of the record.

§ 700.12 Responses to requests for access to records.

(a) *Authority to grant or deny requests.* The head of the Office, or his designee, is authorized to grant or deny any request for access to a record.

(b) *Initial action by the Office.* When the Office receives a request for access to a record in its possession, the Office shall promptly determine whether another Government agency is better able to determine whether the record is exempt, to any extent, from access. If the Office determines that it is the agency best able to determine whether the record is exempt, to any extent, from access, then the Office shall respond to the request. If the Office determines that it is not the agency best able to determine whether the record is exempt from access, the Office shall respond to the request, after consulting with the agency best able to determine whether the record is exempt from access. Under ordinary circumstances, the agency that generated or originated a requested record shall be presumed to be the agency best able to determine whether the record is exempt from access. However, nothing in this section shall prohibit the agency that generated or originated a requested record from consulting with the Office, if the agency that generated or originated the requested record determines that the Office has an interest in the requested record or the information contained therein.

(c) *Law-enforcement information.* Whenever a request for access is made for a record containing information that relates to an investigation of a possible violation of criminal law or to a criminal law-enforcement proceeding and that was generated or originated by another agency, the Office shall consult with that other agency, as appropriate.

(d) *Classified information.* Whenever a request for access is made for a record containing information that has been classified, or that may be eligible for classification, by another agency under the provision of Executive Order 12356 or any other Executive order concerning the classification of records, the Office shall refer the responsibilities for responding to the request to the agency that classified the information or should consider the information for classification. Whenever a record contains information that has been derivatively classified by the Office because it contains information classified by another agency, the Office shall refer the responsibility for responding to the request to the agency that classified the underlying information; however, such referral shall extend only to the information classified by the other agency.

(e) *Agreements regarding consultations.* No provision of this section shall preclude formal or informal agreements between the Office and another agency, to eliminate the need for consultations concerning requests or classes of requests.

(f) *Date for determining responsive records.* In determining records responsive to a request for access, the Office ordinarily will include only those records within the Office's possession and control as of the date of its receipt of the request.

§ 700.13 Form and content of Office responses.

(a) *Form of notice granting request for access.* After the Office has made a determination to grant a request for access in whole or in part, the Office shall so notify the requester in writing. The notice shall describe the manner in which access to the record will be granted and shall inform the requester of any fees to be charged in accordance with section § 700.17 of this subpart.

(b) *Form of notice denying request for access.* When the Office denies a request for access in whole or in part it shall so notify the requester in writing. The notice shall be signed by the head of the Office, or his designee, and shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason or reasons for the denial, including the Privacy Act exemption or exemptions that the Office has relied upon in denying the request and a brief explanation of the manner in which the exemption or exemptions apply to each record withheld; and

(3) A statement that the denial may be appealed under § 700.18(a) of this subpart and a description of the requirements of that subsection.

(c) *Record cannot be located or has been destroyed.* If a requested record cannot be located from the information supplied, or is known or believed to have been destroyed or otherwise disposed of, the Office shall so notify the requester in writing.

(d) *Medical records.* When an individual requests medical records pertaining to himself that are not otherwise exempt from individual access, the Office may advise the individual that the records will be provided only to a physician, designated by the individual, who requests the records and establishes his identity in writing. The designated physician shall determine which records should be provided to the individual and which records should not be disclosed to the individual because of possible harm to the individual or another person.

§ 700.14 Classified information.

In processing a request for access to a record containing information that is classified or classifiable under Executive Order 12356 or any other Executive order concerning the classification of records, the Office shall review the information to determine whether it warrants classification. Information that does not warrant classification shall not be withheld from a requester on the basis of 5 U.S.C. 552a(k)(1). The Office shall, upon receipt of any appeal involving classified or classifiable information, take appropriate action to ensure compliance with the provisions of Executive Order 12356.

§ 700.15 Records in exempt systems of records.

(a) *Law-enforcement records exempted under subsections (j)(2) and (k)(2).* Before denying a request by an individual for access to a law-enforcement record that has been exempted from access pursuant to 5 U.S.C. 552a(k)(2), the Office must review the requested record to determine whether information in the record has been used or is being used to deny the individual any right, privilege, or benefit for which he would otherwise be eligible or to which he would otherwise be entitled under federal law. If so, the Office shall notify the requester of the existence of the record and disclose such information to the requester, except to the extent that the information would identify a confidential source. In cases when disclosure of information in a law-enforcement record could reasonably be expected to identify a confidential source, the record shall not be disclosed to the requester unless the

Office is able to delete from such information all material that would identify the confidential source.

(b) *Employee background investigations.* When a requester requests access to a record pertaining to a background investigation and the record has been exempted from access pursuant to 5 U.S.C. 552a(k)(5), the record shall not be disclosed to the requester unless the Office is able to delete from such record all information that would identify a confidential source.

§ 700.16 Access to records.

(a) *Manner of access.* The Office, once it has made a determination to grant a request for access, shall grant the requester access to the requested record either by: (1) Providing the requester with a copy of the record or (2) making the record available for inspection by the requester at a reasonable time and place. The Office shall in either case charge the requester applicable fees in accordance with the provisions of § 700.17 of this subpart. If the Office provides access to a record by making the record available for inspection by the requester, the manner of such inspection shall not unreasonably disrupt the operations of the Office.

(b) *Accompanying person.* A requester appearing in person to review his records may be accompanied by another individual of his own choosing. Both the requester and the accompanying person shall be required to sign a form stating that the Office of Independent Counsel is authorized to disclose the record in the presence of both individuals.

§ 700.17 Fees for access to records.

(a) *When charged.* The Office shall charge fees pursuant to 5 U.S.C. 552a(f)(5) for the copying of records to afford access to individuals unless the Office, in its discretion, waives or reduces the fees for good cause shown. The Office shall charge fees only at the rate of $0.10 per page. For materials other than paper copies, the Office may charge the direct costs of reproduction, but only if the requester has been notified of such costs before they are incurred. Fees shall not be charged when they would amount, in the aggregate, for one request or for a series of related requests, to less than $3.00. However, the Office may, in its discretion, increase the amount of this minimum fee.

(b) *Notice of estimated fees in excess of $25.* When the office determines or estimates that the fees to be charged under this section may amount to more than $25, the Office shall notify the requester as soon as practicable of the actual or estimated amount of the fee, unless the requester has indicated in advance his willingness to pay a fee as high as that anticipated. (If only a portion of the fee can be estimated readily, the Office shall advise the requester that the estimated fee may be only a portion of the total fee.) When the estimated fee exceeds $25 and the Office has so notified the requester, the Office will be deemed not to have received the request for access to records until the requester has agreed to pay the anticipated fee. A notice to a requester pursuant to this paragraph shall offer him the opportunity to confer with Office personnel with the object of reformulating his request to meet his needs at a lower cost.

(c) *Form of payment.* Requesters must pay fees by check or money order made payable to the Treasury of the United States.

(d) *Advance deposits.* (1) When the estimated fee chargeable under this section exceeds $25, the Office may require a requester to make an advance deposit of 25 percent of the estimated fee or an advance payment of $25, whichever is greater.

(2) When a requester has previously failed to pay a fee charged under this part, the requester must pay the Office the full amount owed and make an advance deposit of the full amount of any estimated fee before the Office shall be required to process a new or pending request for access from that requester.

§ 700.18 Appeals from denials of access.

(a) *Appeals to Independent Counsel.* When the Office denies in whole or part a request for access to records, the requester may appeal the denial to Independent Counsel within 30 days of his receipt of the notice denying his request. An appeal to Independent Counsel shall be made in writing, addressed to the Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004. Both the envelope and the letter of appeal itself must be clearly marked: "Privacy Act Appeal."

(b) *Action on appeals.* Unless Independent Counsel otherwise directs, he or his designee shall act on all appeals under this section, except that: A denial of a request for access by Independent Counsel, or his designee, shall constitute the final action of the Office on that request.

(c) *Form of action on appeal.* The disposition of an appeal shall be in writing. A decision affirming in whole or in part the denial of a request for access shall include a brief statement of the reason or reasons for the affirmance, including each Privacy Act exemption relied upon and its relation to each record withheld, and a statement that judicial review of the denial is available in the United States District Court for the judicial district in which the requester resides or has his principal place of business, the judicial district in which the requested records are located, or the District of Columbia. If the denial of a request for access is reversed on appeal, the requester shall be so notified and the request shall be processed promptly in accordance with the decision on appeal.

§ 700.19 Preservation of records.

The Office shall preserve all correspondence relating to the requests it receives under this subpart, and all records processed pursuant to such requests, until such time as the destruction of such correspondence and records is authorized pursuant to Title 44 of the United States Code. Under no circumstances shall records be destroyed while they are the subject of a pending request for access, appeal, or lawsuit under the Act.

§ 700.20 Requests for correction of records.

(a) *How made.* Unless a record is exempted from correction and amendment, an individual may submit a request for correction of a record pertaining to him. A request for correction must be made in writing. The request must identify the particular record in question, state the correction sought, and set forth the justification for the correction. Both the envelope and the request for correction itself must be clearly marked: "Privacy Act Correction Request."

(b) *Initial determination.* Within 10 working days of receiving a request for correction, the Office shall notify the requester whether his request will be granted or denied, in whole or in part. If the Office grants the request for correction in whole or in part, it shall advise the requester of his right to obtain a copy of the corrected record, in releasable form, upon request. If the Office denies the request for correction in whole or in part, it shall notify the requester in writing of the denial. The notice of denial shall state the reason or reasons for the denial and advise the requester of his right to appeal.

(c) *Appeals.* When a request for correction is denied in whole or in part, the requester may appeal the denial to Independent Counsel within 30 days of his receipt of the notice denying his request. An appeal to Independent Counsel shall be made in writing, shall set forth the specific item of information

sought to be corrected, and shall include any documentation said to justify the correction. An appeal shall be addressed to the Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004. Both the envelope and the letter of appeal itself must be clearly marked: "Privacy Act Correction Appeal."

(d) *Determination on appeal.* Independent Counsel, or his designee, shall decide all appeals from denials or requests to correct records. All such appeals shall be decided within 30 working days of receipt of the appeal, unless there is good cause to extend this period. If the denial of a request is affirmed on appeal, the requester shall be so notified in writing and advised of: (1) The reason or reasons the denial has been affirmed, (2) the requester's right to file a Statement of Disagreement, as provided in paragraph (e) of this section, and (3) the requester's right to obtain judicial review of the denial in the United States District Court for the judicial district in which the requester resides or has his principal place of business, the judicial district in which the record is located, or the District of Columbia. If the denial is reversed on appeal, the requester shall be so notified and the request for correction shall be remanded to the Office for processing in accordance with the decision on appeal.

(e) *Statements of disagreement.* A requester whose appeal under this section is denied shall have the right to file a Statement of Disagreement with the Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street NW., Washington, DC 20004, within 30 days of receiving notice of denial of his appeal. Statements of disagreement may not exceed one typed page per fact disputed. Statements exceeding this limit shall be returned to the requester for condensation. Upon receipt of a statement of disagreement under this section, Independent Counsel, or his designee, shall have the statement included in the system of records in which the disputed record is maintained and shall have the disputed record marked so as to indicate (1) that a statement of disagreement has been filed, and (2) where in the system of records the statement of disagreement may be found.

(f) *Notices of correction or disagreement.* Within 30 working days of the correction of a record, the Office shall advise all agencies to which it previously disclosed the record that the record has been corrected. Whenever an individual has filed a statement of disagreement, the Office shall append a copy of the statement to the disputed record whenever the record is disclosed. The Office may also append to the disputed record any written statement it has made giving the Office's reasons for denying the request to correct the record.

§ 700.21 Records not subject to correction.

The following records are not subject to correction or amendment as provided in § 700.20 of this subpart:

(a) Transcripts of testimony given under oath or written statements made under oath;

(b) Transcripts of grand jury proceedings, judicial proceedings, or quasi-judicial proceedings that constitute the official record of such proceedings;

(c) Presentence records that are the property of the courts, but may be maintained by the Office in a system of records; and

(d) Records duly exempted from correction pursuant to 5 U.S.C. 552a(j) or 552a(k) by notice published in the **Federal Register.**

§ 700.22 Request for accounting of record disclosures.

(a) An individual may request the Office to provide him with an accounting of those other agencies to which the Office has disclosed the record, and the date, nature, and purpose of each disclosure. A request for an accounting must be made in writing and must identify the particular record for which the accounting is requested. The request also must be addressed to the Office and both the envelope and the request itself must clearly be marked: "Privacy Act Accounting Request."

(b) The Office shall not be required to provide an accounting to an individual to the extent that the accounting relates to: (1) Records for which no accounting must be kept pursuant to 5 U.S.C. 552a(c) (1), (2) disclosures of records to law-enforcement agencies for lawful law-enforcement activities, pursuant to written requests from such law-enforcement agencies specifying records sought and the law-enforcement activities for which the records are sought, under 5 U.S.C. 552a(c)(3) and (b)(7), or (3) records for which an accounting need not be disclosed pursuant to 5 U.S.C. 552a (j) or (k).

(c) A denial of a request for an accounting may be appealed to Independent Counsel in the same manner as a denial of a request for access, with both the envelope and the letter of appeal itself clearly marked: "Privacy Act Accounting Appeal."

§ 700.23 Notice of subpoenas and emergency disclosures.

(a) *Subpoenas.* When records pertaining to an individual are subpoenaed by a grand jury, court, or quasi-judicial authority, the official served with the subpoena shall be responsible for ensuring that written notice of its service is forwarded to the individual. Notice shall be provided within 10 working days of the service of the subpoena or, in the case of a grand jury subpoena, within 10 working days of its becoming a matter of public record. Notice shall be mailed to the last known address of the individual and shall contain the following information: The date the subpoena is returnable, the court or quasi-judicial authority to which it is returnable, the name and number of the case of proceeding, and the nature of the records sought. Notice of the service of a subpoena is not required if the system of records has been exempted from the notice requirement of 5 U.S.C. 522a(e)(8), pursuant to 5 U.S.C. 552a(j), by a Notice of Exemption published in the **Federal Register.**

(b) *Emergency disclosures.* If the record of an individual has been disclosed to any person under compelling circumstances affecting the health or safety of any person, as described in 5 U.S.C. 552a(b)(8), the individual to whom the record pertains shall be notified of the disclosure at his last known address within 10 working days. The notice of such disclosure shall be in writing and shall state the nature of the information disclosed, the person or agency to whom it was disclosed, the date of disclosure, and the compelling circumstances justifying the disclosure. The officer who made or authorized the disclosure shall be responsible for providing such notification.

§ 700.24 Security of systems of records.

(a) The Office Administrator or Security Officer shall be responsible for issuing regulations governing the security of systems of records. To the extent that such regulations govern the security of automated systems of records, the regulations shall be consistent with the guidelines developed by the National Bureau of Standards.

(b) The Office shall establish administrative and physical controls to prevent unauthorized access to its systems of records, to prevent the unauthorized disclosure of records, and to prevent the physical damage or destruction of records. The stringency of such controls shall reflect the sensitivity of the records the controls protect. At a minimum, however, the Office's

administrative and physical controls shall ensure that:

(1) Records are protected from public view;

(2) the area in which records are kept is supervised during business hours to prevent unauthorized persons from having access to the records; and

(3) records are inaccessible to unauthorized persons outside of business hours.

(c) The Office shall establish rules restricting access to records to only those individuals within the Office who must have access to such records in order to perform their duties. The Office also shall adopt procedures to prevent the accidental disclosure of records or the accidental granting of access to records.

§ 700.25 Use and collection of social security numbers.

(a) Each system manager of a system of records that utilizes Social Security numbers as a method of identification without statutory authorization, or authorization by regulation adopted prior to January 1, 1975, shall take steps to revise the system to avoid future collection and use of the Social Security numbers.

(b) The Office shall take such measures as are necessary to ensure that employees authorized to collect information from individuals are advised that individuals may not be required to furnish Social Security numbers without statutory or regulatory authorization and that individuals who are requested to provide Social Security numbers voluntarily must be advised that furnishing the number is not required and that no penalty or denial of benefits will flow from the refusal to provide it.

§ 700.26 Employee standards of conduct.

(a) The Office shall inform its employees of the provisions of the Privacy Act, including the Act's civil liability and criminal penalty provisions. The Office also shall notify its employees that they have a duty to:

(1) Protect the security of records;

(2) Assure the accuracy, relevance, timeliness, and completeness of records;

(3) Avoid the unauthorized disclosure, either verbal or written, of records; and

(4) Ensure that the Office maintains no system of records without public notice.

(b) Except to the extent that the Privacy Act permits such activities, an employee of the Office of Independent Counsel shall:

(1) Not collect information of a personal nature from individuals unless the employee is authorized to collect such information to perform a function or discharge a responsibility of the Office;

(2) Collect from individuals only that information that is necessary to the performance of the functions or to the discharge of the responsibilities of the Office;

(3) Collect information about an individual directly from that individual, whenever practicable;

(4) Inform each individual from whom information is collected of:

(i) The legal authority that authorizes the Office to collect such information;

(ii) The principal purposes for which the Office intends to use the information;

(iii) The routine uses the Office may make of the information; and

(iv) The effects upon the individual of not furnishing the information;

(5) Maintain all records that are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as to assure fairness to the individual in the determination;

(6) Except as to disclosures to an agency or pursuant to 5 U.S.C. 552a(b)(2), make reasonable efforts, prior to disseminating any record about an individual, to assure that such records are accurate, relevant, timely, and complete;

(7) Maintain no record concerning an individual's religious or political beliefs or activities, or his membership in associations or organizations, unless:

(i) The individual has volunteered such information for his own benefit;

(ii) A statute expressly authorizes the Office to collect, maintain, use or disseminate the information; or

(iii) The individual's beliefs, activities, or membership are pertinent to and within the scope of an authorized law-enforcement or correctional activity;

(8) Notify the head of the Office of the existence or development of any system of records that has not been disclosed to the public;

(9) When required by the Act, maintain an accounting in the prescribed form of all disclosures of records by the Office to agencies or individuals whether verbally or in writing;

(10) Disclose no record to anyone, except within the Office, for any use, unless authorized by the Act;

(11) Maintain and use records with care to prevent the inadvertent disclosure of a record to anyone; and

(12) Notify the head of the Office of any record that contains information that the Act or the foregoing provisions of this paragraph do not permit the Office to maintain.

(c) Not less than once a year, the head of each Office shall review the systems of records maintained by that Office to ensure that the Office is in compliance with the provisions of the Privacy Act.

§ 700.27 Other rights and services.

Nothing in this subpart shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under 5 U.S.C. 552a.

Subpart B—Exemption of the Office of Independent Counsel's Systems of Records Under the Privacy Act

§ 700.31 Exemption of the Office of Independent Counsel Systems of Records—Limited Access.

(a) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4); (d); (e) (1), (2) and (3); (e)(4) (G), (H) and (I); (e) (5) and (8); (f); and (g):

(1) General Files System of the Office of Independent Counsel (OIC/001).

These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(1), (k)(2), and (k)(5).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because making available to a record subject the accounting of disclosures from records concerning him/her would reveal investigative interest on the part of the Office of Independent Counsel as well as the recipient agency. This would permit record subjects to impede the investigation, e.g., destroy evidence, intimidate potential witnesses, or flee the area to avoid inquiries or apprehension by law-enforcement personnel. Moreover, the release of the accounting of disclosures made under subsection (b) of the Act, including those disclosures permitted under the routine uses published for these systems would permit the subject of an investigation of an actual or potential criminal, civil or regulatory violation to determine whether he is the subject of an investigation or to obtain valuable information concerning the nature of the investigation, material compiled during the investigation, and the identity of witnesses and informants. Disclosure of the accounting would, therefore, present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record; such notice requirement under subsection (f)(1) of the Act is

specifically exempted for this system of records.

(2) From subsection (c)(4) because an exemption is being claimed under subsection (d) of the Act. This system is exempt from the access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act. Subsection (c)(4), therefore, is inapplicable to this system of records.

(3) From subsection (d) because the records contained in this system relate to official federal investigations. Individual access to these records contained in this system would inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identities of witnesses and informants, or would provide information that could enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement because they could prevent the successful completion of the investigation, reveal confidential informants, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony. Individual access also could constitute an unwarranted invasion of the personal privacy of third parties who are involved in an investigation. Amendment of the records would interfere with ongoing criminal-law enforcement proceedings and impose an impossible administrative burden.

(4) From subsections (e) (1) and (5) because, in the course of criminal or other law-enforcement investigations, cases and matters, the Office of Independent Counsel may occasionally obtain information concerning actual or potential violations of law that are not strictly within its authority or jurisdiction, or may compile information, the accuracy of which is unclear or which is not strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate and necessary to retain all information that may aid in establishing patterns of criminal activity. Moreover, it would impede the specific investigative process if it were necessary to ensure the relevance, accuracy, timeliness and completeness of all information obtained. In particular, this would restrict the ability of trained investigators, intelligence analysts, and government attorneys to exercise their judgment in reporting on information and investigations.

(5) From subsection (e)(2) because, in a criminal or other law-enforcement investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement. In such circumstances, the subject of the investigation or prosecution would be informed of the existence of the investigation and would therefore be able to avoid detection, apprehension, or legal obligations or duties, as well as to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

(6) From subsection (e)(3) because compliance with the requirements of this subsection during the course of an investigation could impede the information-gathering process, thus hampering the investigation. Furthermore, such requirements could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(7) From subsections (e)(4) (G) and (H) because this system is exempt from the individual-access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act.

(8) From subsection e(4)(I) because the categories of sources of records in this system have been published in the **Federal Register** in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in these systems, exemption from this provision is necessary in order to protect the confidentiality of the sources of criminal and other law-enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9) From subsection (e)(8) because the individual-notice requirements of subsection (e)(8) could present a serious impediment to law enforcement through interference with the Office of Independent Counsel's ability to issue subpoenas and the disclosure of its investigative techniques and procedures.

(10) From subsection (f) because this system is exempt from the individual-access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act. Furthermore, such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or prosecution pending or future.

(11) From subsection (g) because this system is exempt from the individual-access and amendment provisions of subsection (d) and the provisions of subsection (f) pursuant to subsections (j) and (k) of the Privacy Act.

(c) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4), (G), (H) and (I); (e) (5) and (8); (f) and (g):

(1) Freedom of Information Act/ Privacy Act Files (OIC/002). These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(I), (k)(2), and (k)(5).

(d) Because this system contains Office of Independent Counsel criminal law-enforcement investigatory records, exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the disclosure accounting would permit the subject(s) of criminal investigations under investigation or in litigation to obtain valuable information concerning the nature of that investigation, matter or case and present a serious impediment to law-enforcement activities.

(2) From subsection (c)(4) because an exemption is being claimed for subsection (d) of the Act, rendering this subsection inapplicable to the extent that this system of records is exempted from subsection (d).

(3) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation or case of the existence of such, and provide the subject with information that might enable him to avoid detection, apprehension or legal obligations, and present a serious impediment to law enforcement and other civil remedies. Amendment of the records would interfere with ongoing criminal law-enforcement proceedings and impose an impossible administrative burden.

(4) From subsection (e)(1) because in the course of criminal investigations, matters or cases, the Office of Independent Counsel often obtains information concerning the violation of laws other than those relating to an active case, matter, or investigation. In the interests of effective law enforcement and criminal litigation, it is necessary that the Office of Independent Counsel retain this information since it can aid in establishing patterns of activity and provide valuable leads for future cases that may be brought within the Office of Independent Counsel.

(5) From subsection (e)(2) because collecting information to the greatest

extent possible from the subject individual of a criminal investigation or prosecution would present a serious impediment to law enforcement. In such circumstances, the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection, apprehension, or legal obligations and duties.

(6) From subsection (e)(3) because providing individuals supplying information with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement. In those circumstances, it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information, and endanger the life and physical safety of confidential informants.

(7) From subsection (e)(4) (G), (H) and (I) because this system of records is exempt from the individual-access and amendment provisions of subsection (d) and the rules provisions of subsection (f).

(8) From subsection (e)(5) because, in the collection of information for law-enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would inhibit the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(9) From subsection (e)(8) because the individual-notice requirements of subsection (e)(8) could present a serious impediment to law enforcement, i.e., this could interfere with the Office of Independent Counsel's ability to issue subpoenas and could reveal investigative techniques and procedures.

(10) From subsection (f) because this system has been exempted from the individual-access and amendment provisions of subsection (d).

(11) From subsection (g) because the records in this system are generally compiled for law-enforcement purposes and are exempt from the individual-access and amendment provisions of subsections (d) and (f), thus rendering subsection (g) inapplicable.

[FR Doc. 87-25371 Filed 11-3-87; 8:45 am]
BILLING CODE 2210-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-011F]

Occupational Noise Standard

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

ACTION: Request for comments and information.

SUMMARY: The Occupational Safety and Health Administration is requesting information concerning the current information collection burdens of the occupational noise standard (29 CFR 1910.95). OSHA seeks comments on whether and to what extent the information collection requirements of the standard can be reduced without reducing the effectiveness of the standard in preventing employee hearing loss.

DATE: Comments, information, and data should be submitted by January 4, 1988.

ADDRESSES: Written submissions in response to this notice should be submitted to the Docket Officer, Docket No. H-011F, Room N3670, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3637, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION:

Background

Section 6(a) of the Occupational Safety and Health Act (84 Stat. 1590, 29 U.S.C. 651, *et seq.*) authorized OSHA for a two year period to adopt established Federal safety and health standards. The occupational noise exposure standard was originally promulgated under the Walsh-Healey Public Contracts Act, 41 U.S.C. 35, *et seq.* and therefore, was subsequently adopted as an OSHA standard in 1971. Designated as 29 CFR 1910.95 (a) and (b), the noise standard limited an employee's noise exposure to 90 decibels (dB) as an 8-hour time-weighted average (TWA). Employee exposure to noise above the permissible exposure limit (PEL) must be reduced to within the permissible limits by feasible engineering or administrative controls, and supplemented by personal protective equipment when needed. The employer was also required to administer a continuing effective hearing conservation program if exposures exceeded the PEL, but the 1971 standard did not spell out the elements of such a hearing conservation program.

A hearing conservation amendment to the occupational noise exposure standard was promulgated as a final rule on March 8, 1983 (48 FR 9738) following eight years of rulemaking activity. The amendment requires employers to provide an effective hearing conservation program for all employees exposed to an 8-hour TWA of 85 dB or more and contains requirements for monitoring employee noise exposure, annual audiometric testing of employees exposed to noise at or above a TWA of 85 dB, the proper selection and use of hearing protectors, education and training of employees, and the keeping of records including those for exposure monitoring and audiometric testing (see 29 CFR 1910.95 (c)-(s)).

At the time the hearing conservation amendment was promulgated, OSHA reevaluated the information collection burden to include the new provisions. Such burdens were kept to the minimum thought necessary for an effective program and for OSHA enforcement of the standard. The information collection provisions in the standard had already been examined carefully by OSHA when the original January 1981 hearing conservation amendment (46 FR 4078) was stayed for reconsideration. Several of its detailed recordkeeping requirements were found to be unnecessarily burdensome or redundant and were revoked. The information collection requirements that remain have been considered necessary to insure the effectiveness of the standard. However, these requirements do impose a significant paperwork burden on the almost 200,000 affected employers that has been estimated to be over 6.8 million hours. In addition, the Regulatory Flexibility Act, 5 U.S.C. 601-612, and the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. 3501, *et seq.* (administered by OMB) both require periodic review of regulations with a view towards reducing the burdens they impose on the public. According to OMB, the term "collection of information" includes:

(1) . . . the use of written report forms, application forms, schedules, questionaires, reporting or recordkeeping requirements, or other similar methods. Similar methods may include contracts, agreements, policy statements, plans, rules or regulations, planning requirements, circulars, directives, instructions, bulletins, requests for proposal

or other procurement requirements, interview guides, disclosure requirements, labeling requirements, telegraphic or telephonic requests, and standard questionnaires used to monitor compliance with agency requirements (5 CFR 1320.7 (c)(1)).

and

(2) Requirements by an agency or a person to obtain or compile information for the purpose of disclosure to members of the public or to the public at large, through posting, notification, labeling or similar disclosure requirements, constitute the "collection of information" whenever the same requirement to obtain or compile information would be a "collection of information" if the information were directly provided to the agency. The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclsoure to the public is not included within this definition (5 CFR 1320.7 (c)(2)).

The term "information collection burden" means:

. . . the total time, effort, or financial resources required to respond to a collection of information, including that to read or hear instructions; to develop, modify, construct, or assemble any materials for equipment; to conduct tests, inspections, polls, observations, or the like necessary to obtain the information; to organize the information into the requested format; to review its accuracy and the appropriateness of its manner of presentation; and to maintain, disclose, or report the information.

The time and financial resources necessary to comply with a collection of information that would be incurred by persons in the normal course of their activities (e.g., in compiling and maintaining business records), will be excluded from the "burden" if the agency demonstrates that the reporting or recordkeeping activities needed to comply are usual and customary (5 CFR 1320.7(b)).

Comments and Information Requested

OSHA seeks comments and information from the public on the practical utility of the information required to be collected by the existing regulation, on the appropriate frequency for collecting the information and on possible alternatives for reducing the burden without reducing the effectiveness of the standard in protecting employee hearing. During rulemaking, specific information, research, and studies were introduced into the record to support the need for the requirements of the standard and the information collection burden these requirements impose. Therefore, persons responding should submit any supporting studies or research that show how the health protection afforded by the existing standard will not be decreased by any proposed method for reducing the information collection burden.

Public Participation

Written Comments and Information

The written comments and information requested herein must be submitted on or before January 4, 1988. Comments should be submitted in quadruplicate to the Docket Officer, Docket H-011F, Room N3670, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, DC 20210, where they will be available for public inspection and copying during normal business hours.

List of Subjects in 29 CFR 1910

Occupational health standards, noise.

Authority

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

Signed at Washington, DC, this 29th day of October, 1987.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 87-25522 Filed 11-3-87 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefits Administration

29 CFR Part 2550

Participant Directed Individual Account Plans (ERISA Section 404(c) Plans); Notice of Extension of Comment Period and Notice of Hearing

AGENCY: Department of Labor.

ACTION: Notice of extension of comment period and notice of hearing.

SUMMARY: This document extends the comment period and provides notice of a public hearing regarding proposed regulations under section 404(c) of Title I of the Employee Retirement Income Security Act of 1974 (ERISA, or the Act) relating to participant directed individual account plans. The proposed regulations were set forth in a notice of proposed rulemaking published in the **Federal Register** at 52 FR 33507 (September 3, 1987).

DATES: The comment period is extended through December 7, 1987. The hearing will be held on Wednesday, February 10, 1988 beginning at 9:15 a.m. e.s.t.

ADDRESSES: Written comments (preferably at least three copies) should be submitted to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N-5669, U.S. Department of Labor, Washington, DC 20210, and marked "Attention: Section 404(c) regulation." All submissions will be available for public inspection in the Public Documents Room, Pension and Welfare Benefits Administration, Room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

The hearing will be held in Room N 3437 A and B of the Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Martin A. Staubus, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210, (202) 523-9596 (not a toll free number) or Mark A. Greenstein, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC 20210, (202) 523-8671 (not a toll free number).

SUPPLEMENTARY INFORMATION: On September 3, 1987, the Department of Labor (the Department) published a notice of proposed rulemaking in the **Federal Register** (52 FR 33507) regarding participant directed individual account plans under section 404(c) of ERISA (29 U.S.C. 1104(c)). In that notice the Department invited all interested persons to submit written comments concerning the proposed regulations on or before November 2, 1987.

The Department has received requests from some members of the public for additional time to prepare comments due to the complexity of the issues involved in the proposed regulations, and the Department believes that it is appropriate to grant such additional time. Accordingly, this notice extends the comment period during which comments on the proposed regulations will be received through December 7, 1987.

In addition, the Department has received a number of comments requesting a public hearing. In view of these requests, and the importance of the proposed regulations, the Department has decided to hold a hearing on the proposed regulations on Wednesday, February 10, 1988, beginning at 9:15 a.m. e.s.t., in Room N 3437 A and B of the Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC.

Any interested person who wishes to be assured of an opportunity to present oral comments at the hearing should submit by 3:30 p.m. e.s.t., February 1, 1988: (1) A written request to be heard, and (2) an outline (preferably five

copies) of the topics to be discussed, indicating the time allocated to each topic. The request to be heard and accompanying outline should be sent to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N-5669, U.S. Department of Labor, Washington, DC 20210, and marked "Attention: Section 404(c) Hearing." Individuals who do not file written comments regarding the proposed regulations may nonetheless submit a request to make oral comments at the hearing.

The Department will prepare an agenda indicating the order of presentation of oral comments. In the absence of special circumstances, each commentator will be allotted ten minutes in which to complete his presentation. Information about the agenda may be obtained on or after February 8, 1988 by telephoning Mark A. Greenstein, Washington, DC, (202) 523-8671 (not a toll free number). Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments. The hearing will be transcribed.

Notice of Extension of Comment Period

Notice is hereby given that the period of time for the submission of public comments on the proposed regulations relating to participant directed individual account plans under section 404(c) of ERISA (proposed at 52 FR 33507, September 3, 1987), is hereby extended through Monday, December 7, 1987.

Notice of Public Hearing

Notice is hereby given that a public hearing will be held on Wednesday, February 10, 1988 regarding proposed regulations (published at 52 FR 33507, September 3, 1987) under section 404(c) of ERISA relating to participant directed individual account plans. The hearing will be held beginning at 9:15 a.m. e.s.t., in Room N 3437 A and B of the Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC.

Signed at Washington, DC this 30th day of October, 1987.

David M. Walker,

Assistant Secretary of Labor, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 87-25577 Filed 11-3-87; 8:45 am]

BILLING CODE 4510-29-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3287-4]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Reasonably Available Control Technology for Raymark Corp., Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a proposed State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes and requires the use of reasonably available control technology (RACT) to control volatile organic compounds (VOC) emissions from Raymark Corporation, Incorporated in Stratford, Connecticut. The intended effect of this action is to propose approval of a source-specific RACT determination submitted by the State in accordance with commitments made in its Ozone Attainment Plan approved by EPA on March 21, 1984 (49 FR 10542).

DATES: Comments must be received on or before December 4, 1987.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2312, JFK Federal Bldg., Boston, MA 02203. Copies of Connecticut's submittal and EPA's Technical Support Document prepared for this revision are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2311, JFK Federal Bldg., Boston, MA 02203; and the Air Compliance Unit, Department of Environmental Protection, State Office Bldg., 165 Capitol Avenue, Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: David B. Conroy, (617) 565-3252; FTS 835-3252.

SUPPLEMENTARY INFORMATION: On November 20, 1986 and March 1, 1987, the Connecticut Department of Environmental Protection (DEP) submitted a proposed SIP revision to EPA. This revision is proposed State Order No. 8013 which defines VOC control requirements for Raymark Corporation, Incorporated (Raymark) in Stratford, Connecticut. These control requirements constitute RACT for this facility as required by subsection 22a-174-20(ee), "Reasonably Available Control Technology for Large Sources," of Connecticut's Regulations for the Abatement of Air Pollution.

Subsection 22a-174-20(ee) requires the DEP to determine and impose RACT on all stationary sources with potential VOC emissions of one hundred tons per year (TPY) or more that are not already subject to Connecticut's regulations developed pursuant to the Control Techniques Guideline (CTG) documents. EPA approved this regulation on March 21, 1984 (49 FR 10542) as part of Connecticut's 1982 Ozone Attainment Plan. That approval was granted with the agreement that all source-specific RACT determinations made by the DEP would be submitted to EPA as source-specific SIP revisions.

Summary of SIP Revision

Raymark's principal operation is the manufacture of clutch pads and gaskets. Volatile organic compounds are emitted from five areas at Raymark. The five areas are the storage tanks; the resins manufacturing process; the adhesive manufacturing process; the wet friction products manufacturing process; and the special products manufacturing process.

I. Storage Tanks

Raymark has investigated the feasibility of controlling the VOC emissions from its storage tanks. Raymark has approximately 14 VOC-containing storage tanks with annual throughput of approximately five million pounds of VOC. Raymark has estimated that the tanks annually emit approximately 0.85 tons of VOC. From its investigations, Raymark has shown that no controls are feasible. State Order No. 8013 does not require Raymark to implement controls on its storage tanks. As RACT, Raymark is required to maintain a quarterly allowable emission limit of .2118 tons of VOC from all of its VOC-containing storage tanks. Compliance with the above limitation will be verified by recordkeeping of VOC deliveries to Raymark's storage tanks.

II. Resins Manufacturing

The resins manufacturing process consists of a jacketed reactor vessel which is used to manufacture resins from liquid and solid raw materials. The reactor vessel is equipped with a vapor condensation loop consisting of a vacuum pump which discharges to a condensor. The vapor from the condensor is recycled to the reactor vessel, and thus the system is closed with no significant VOC emissions. The condensate that is collected by the condensor is sent to a boiler to be burned. State Order No. 8013 requires Raymark to maintain a VOC destruction efficiency of 90 percent in the boiler

when it is burning the condensate. Compliance will be verified with a continuous temperature recorder which Raymark is required to install pursuant to the requirements of State Order No. 8013. The boiler is presently destroying approximately 325.4 tons of VOC per year.

III. Adhesives Manufacturing

The adhesives manufacturing process consists of small reactor vessels that are used to manufacture adhesives. These vessels are jacketed, and the temperature is controlled with cooling water. Raymark estimates that the amount of VOC emitted is not significant during the adhesive manufacturing since the process is simply one of mixing ingredients in closed vessels and holding them until the ingredients dissolve and react. State Order No. 8013 requires Raymark to begin documenting the quantity of VOC emissions from the adhesive manufacturing process by May 1, 1987 through daily recordkeeping.

Under subsection 22a-174-20(aa), "Applicability," of Connecticut's regulations, if the VOC emissions are maintained at less than 40 pounds per day, the adhesive manufacturing process would be exempt under subsection 22a-174-20(ee) from implementing RACT. This 40 pound per day cut-off for exempting VOC processes from RACT requirements, specified in subsection 22a-174-20(aa), was approved by EPA on October 19, 1984 (49 FR 41026). Compliance with the above limitation will be verified by daily recordkeeping of the overall VOC used in the adhesive manufacturing process and the overall amount of VOC contained in the manufactured adhesives.

If Raymark determines that it emits more than 40 pounds per day of VOC, then Raymark is required by the State Order to implement RACT on the adhesive manufacturing process. The Connecticut DEP has determined that RACT would be a reduction in VOC emissions of 80 percent from this process by December 1, 1987.

IV. Wet Friction Products Manufacturing

The wet friction products manufacturing process consists of saturation tanks, precuring ovens, and batch and final curing ovens. The process consists of manufacturing paper wafers which are then put on a conveyor and saturated with a VOC-containing resin in a tank. In the tank the wafers absorb resin and VOC. At the exit from the saturation tank rollers squeeze excess saturant from the wafers. The saturated wafers are then conveyed to precuring ovens where they are subjected to a vacuum at elevated temperatures which removes approximately 96.6 percent of the absorbed VOC. The evaporated solvent is sent to an incinerator to be burned. The precured wafers are then loaded onto trucks and placed in the batch and final cure ovens. The batch and final cure ovens, which are not controlled, remove the remaining 3.4 percent of absorbed solvent.

State Order No. 8013 requires Raymark to maintain an overall capture and destruction efficiency of 90 percent from the entire wet friction products manufacturing process through incineration. The incinerator is presently reducing approximately 549 tons of VOC per year from this process.

To insure that the incinerator will maintain an adequate capture efficiency, the State Order requires Raymark to undertake weekly visible inspections of all hooding and ductwork from the ovens to the incinerator and oven door gaskets for fugitive emission leaks. If visible emissions are observed, repairs are required to be initiated immediately. To insure that the incinerator will maintain an adequate destruction efficiency, the State Order requires Raymark to install a continuous temperature recorder on the incinerator.

Additionally, State Order No. 8013 requires Raymark to maintain a daily recordkeeping system of VOC usage in the wet friction products manufacturing process.

V. Special Products Manufacturing

The special products manufacturing process follows the same basic sequence of wafer production as the wet friction products manufacturing process (i.e., saturation followed by precuring, followed by final curing), excepting that each operation is performed manually rather than automatically. Saturation is performed by manually dipping trucks containing wafers into vats of saturant, and precuring is performed by air drying. The precured products are then trucked to final curing ovens. Certain special products also undergo additional operations such as hot pressing in steam autoclaves to get more resin into the wafers, and adhesive spraying in order to bond the wafers to other materials. There are presently no controls for any of the VOC emission sources in this process.

The special products manufacturing process annually emits approximately 26 tons of VOC. Raymark has investigated the feasibility of installing an incinerator on the saturation tanks which emit approximately 83% (approximately 22 tons/year) of the VOC's released by this process. From Raymark's investigations, it is estimated that the cost of controlling the VOC emissions from the saturation tanks would be in the vicinity of $59,000 per ton of VOC controlled. The Connecticut DEP has determined that this does not represent RACT for this source and is not requiring Raymark to install add-on control equipment. Instead, the DEP is requiring Raymark to maintain an emission limitation on the special products manufacturing process of 2.166 tons of VOC per month. Compliance with this limitation will be verified with daily recordkeeping of the VOC usage for each saturation tank. This limitation and the recordkeeping requirements are contained in the State Order. Additionally, the State Order requires Raymark to install a cover on each saturant tank. These covers should reduce fugitive VOC emissions from this process.

Since the adhesive spraying operation of the special products manufacturing process also utilizes VOC containing materials, State Order No. 8013 requires Raymark to begin documenting the quantity of VOC emissions from the adhesive spraying operation by May 1, 1987 through daily recordkeeping. If the VOC emissions are less than 40 pounds per day, the adhesive spraying operation would be exempt under subsection 22a-174-20(aa) from implementing RACT pursuant to subsection 22a-174-20(ee) provided Raymark maintains its VOC emissions from this process below 40 pounds per day. Compliance with the above limitation will be verified by daily recordkeeping of VOC usage in the adhesive spraying operation. If Raymark determines that it emits more than 40 pounds per day of VOC, then Raymark is required by the State Order to implement RACT on the adhesive spraying operations. The Connecticut DEP has determined that RACT would be a reduction in VOC emissions of 80 percent from this process by December 1, 1987.

EPA has reviewed the requirements of State Order No. 8013 and has determined that they constitute RACT for Raymark Corporation, Incorporated.

EPA is proposing to approve DEP's proposed Order as a revision to the Connecticut SIP and is soliciting public comments. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

This revision is being proposed under a procedure called parallel-processing,

whereby EPA proposes rulemaking action concurrently with the State's procedures for amending its regulations. If the proposed revision is substantially changed, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made to the proposed revision, EPA will publish a final rulemaking notice. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the State of Connecticut and formally submitted for incorporation into the SIP.

Proposed Action

EPA is proposing to approve Connecticut's proposed State Order No. 8013 as a revision to the Connecticut SIP. The provisions of Connecticut's proposed State Order No. 8013 define and impose RACT for Raymark Corporation, Incorporated as required by subsection 22a-174-20(ee) of Connecticut's regulations.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of section 110(a)(2)(A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7642.

Date: April 28, 1987.

Michael R. Deland,

Regional Administrator, Region I.

[FR Doc. 87-25535 Filed 11-3-87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[FRL-3287-5]

Approval and Promulgation of Implementation Plans Connecticut; Reasonably Available Control Technology for American Cyanamid Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes and requires the use of reasonably available control technology (RACT) to control volatile organic compound (VOC) emissions from American Cyanamid Company in Wallingford, Connecticut. The intended effect of this action is to propose approval of a source-specific RACT determination made by the State in accordance with commitments made in its Ozone Attainment Plan approved by EPA on March 21, 1984 (49 FR 10542).

DATES: Comments must be received on or before December 4, 1987.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2312, JFK Federal Bldg., Boston, MA 02203. Copies of Connecticut's submittal and EPA's Technical Support Document prepared for this revision are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2311, JFK Federal Bldg., Boston, MA 02203; Public Information Reference Unit, and the Air Compliance Unit, Department of Environmental Protection, State Office Bldg., 165 Capitol Avenue, Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: David B. Conroy, (617) 565-3252; FTS 835-3252.

SUPPLEMENTARY INFORMATION: On December 19, 1986, the Connecticut Department of Environmental Protection (DEP) submitted a SIP revision to EPA. This revision is proposed State Order No. 8012 which defines VOC control requirements for American Cyanamid Company in Wallingford, Connecticut. These control requirements constitute RACT for this facility as required by subsection 22a-174-20(ee), "Reasonably Available Control for Large Sources," of Connecticut's Regulations for the Abatement of Air Pollution.

Subsection 22a-174-20(ee) requires the DEP to determine and impose RACT on all stationary sources with potential VOC emissions of one hundred tons per year (TPY) or more that are not already subject to Connecticut's regulations developed pursuant to the Control Techniques Guideline (CTG) documents. EPA approved this regulation on March 21, 1984 (49 FR 10542) as part of Connecticut's 1982 Ozone Attainment Plan. That approval was granted with the agreement that all such RACT determinations made by the DEP would be submitted to EPA as source-specific SIP revisions.

Summary of SIP Revision

American Cyanamid Company produces polymers at its Wallingford Plant. American Cyanamid has three distinct areas which are subject to the requirements of subsection 22a-174-20(ee) of Connecticut's regulations. The three areas are the Thermoplastics Department (Buildings #10S and #10A), the Thermosetting Department (Building #1), and the Resins Department (Buildings #5 and #6). As RACT, the State Order requires American Cyanamid to install air pollution control equipment on any VOC emission source whose maximum potential VOC emissions exceed forty pounds per day or five thousand pounds per year. Each piece of air pollution control equipment is required to demonstrate a minimum overall VOC reduction of eighty-five percent. Additionally, the State Order requires American Cyanamid to upgrade any existing air pollution control equipment that is not demonstrating a minimum overall VOC reduction of eighty-five percent. All such modified pollution control equipment must also achieve a minimum overall VOC reduction of eighty-five percent.

The State Order exempts any source emitting less than forty pounds of VOC per day and five thousand pounds of VOC per year from any RACT requirements. This exemption is consistent with the provisions of subsection 22a-174-20(aa) which was approved by EPA on October 19, 1984 (49 FR 41026). For purposes of determining which sources are exempt from meeting RACT, American Cyanamid must aggregate similar or identical VOC emission points. For each source that is exempt from meeting RACT, the DEP will impose an enforceable daily cap in pounds VOC per day. The daily cap will be forty pounds VOC per day for sources whose potential emissions are greater than 40 pounds per day but actual emissions are less than 40 pounds per day. For sources whose both potential and actual VOC emissions are less than 40 pounds per day, the daily cap will be set at the level of the source's potential VOC emissions.

State Order No. 8012 also requires American Cyanamid to implement a fugitive leak detection program on all of its processes. This program will reduce VOC leaks from valves, pumps, compressors and safety relief valves at American Cyanamid.

On February 10, 1987, EPA sent a letter to the Connecticut DEP with minor comments on proposed State Order No. 8012. In that letter, EPA suggested minor language changes to the State Order to

improve the enforceability of its requirements. The Connecticut DEP has agreed to make all of the necessary changes that EPA has provided before formally submitting this State Order as a SIP revision.

American Cyanamid is required to achieve full compliance with the requirements of State Order No. 8012 on all of its processes by December 31, 1987. That is the date allowed under subsection 22a-174-20(ee) of Connecticut's federally-approved SIP. Not including the fugitive leak detection program, the application of RACT by American Cyanamid as required by State Order No. 8012 will reduce American Cyanamid's actual emissions by approximately 198 tons per year.

EPA has reviewed the requirements of State Order No. 8012 including its compliance dates, and has determined that they constitute RACT for American Cyanamid.

EPA is proposing to approve DEP's proposed Order as a revision to the Connecticut's SIP, and is soliciting public comments. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

This revision is being proposed under a procedure called parallel-processing, whereby EPA proposes rulemaking action concurrently with the State's procedures for amending its regulations. If the proposed revision is substantially changed, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made to the proposed revision, EPA will publish a final rulemaking notice. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the State of Connecticut and submitted for incorporation into the SIP.

Proposed Action

EPA is proposing to approve Connecticut's proposed State Order No. 8012 as a revision to the Connecticut SIP. The provisions of Connecticut's proposed State Order No. 8012 define and impose RACT for American Cyanamid Company as required by subsection 22a-174-20(ee) of Connecticut's regulations.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of section 110(a)(2)(A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Hydrocarbons, Intergovernmental relations, Reporting and Recordkeeping requirements.

Authority citation: 42 U.S.C. 7401-7642.

Date: March 11, 1987.

Michael R. Deland,

Regional Administrator, Region I.

Editorial Note: This document was received at the Office of the Federal Register October 30, 1987.

[FR Doc. 87-25537 Filed 11-3-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 60

[AD-FRL-3287-3]

Standards of Performance for New Stationary Sources; Polypropylene, Polyethylene, Polystyrene, and Poly(Ethylene Terephthalate) Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing.

SUMMARY: This notice for the Standards of Performance for New Stationary Sources—Polypropylene, Polyethylene, Polystyrene, and Poly(ethylene terephthalate) Manufacturing Industry clarifies the information presented in the September 30, 1987 (52 FR 36678), **Federal Register** regarding the date of the public hearing. A public hearing has been requested and the date and place of the hearing are given.

DATES: A public hearing has been requested and it will be held on November 16, 1987, beginning at 10:00 a.m.

ADDRESSES: The public hearing will be held at EPA's Office of Administration Auditorium located off Alexander Drive, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Ann Eleanor, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone Number (919) 541-5578.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Eleanor, (919) 541-5578.

Date: October 28, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 87-25538 Filed 11-3-87; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 52, No. 213
Wednesday, November 4, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by the Office of Management and Budget

October 30, 1987.

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

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

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., 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 Stabilization and Conservation Service

Request for Long-Term Agreement (Agricultural Conservation Program)
ACP-310
On occasion
Individuals or households; Farms; 3,300 responses; 1,650 hours; not applicable under 3504(h)
Clayton M. Furukawa (202) 475-5571

- Animal and Plant Health Inspection Service

U.S. Origin Health Certificates
VS 17-50 and VS 17-140
On occasion
Farms; Businesses or other for-profit; Federal agencies or employees; 39,040 responses; 19,520 hours; not applicable under 3504(h)
Michael J. Gilsdorf (301) 436-8383

- National Agricultural Statistics Service

Field Crop Production
Weekly; Monthly; Quarterly; Annually
Farms; Businesses or other for-profit; 290,903 responses; 53,767 hours; not applicable under 3504(h)
Larry Gambrell (202) 447-7737

Revision

- National Agricultural Statistics Service

Floriculture and Nursery Survey
Annually
Farms; Businesses or other for-profit; 14,220 responses; 4,740 hours; not applicable under 3504(h)
Larry Gambrell (202) 447-7737

- Agricultural Stabilization and Conservation Service

Peanut Warehouse Contracts, Applications for Approval, Examination Reports, Bond, Warehouse Receipts and Drafts
Recordkeeping; Monthly, Annually, Daily
Farms; Businesses or other for-profit; 79,581 responses; 8,647 hours; not applicable under 3504(h)
Bob Ray (202) 382-9106

- National Agricultural Statistics Service

Vegetable Surveys
Farms; Businesses or other for-profit; 17,412 responses; 2,642 hours; not applicable under 3504(h)
Larry Gambrell (202) 447-7737

Donald E. Hulcher,
Acting Departmental Clearance Officer.
[FR Doc. 87-25559 Filed 11-3-87; 8:45 am]
BILLING CODE 3410-01-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Agency Information Collection Activities Under OMB Review

AGENCY: Architectural and Transportation Barriers Compliance Board (ATBCB).

ACTION: Information collection submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Board's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Board clearance officer and to the Office of Management and Budget Architectural and Transportation Barriers Compliance Board Desk Officer, Washington, DC 20503; telephone 202/395-7316.

Title: 29 U.S.C. 792 Emergency Egress and Disabled Persons.

Abstract: Section 502(b)(7) of Pub L. 95-602 requires the Board to establish minimum guidelines and requirements for accessible design. In addition, section 502(f) provides the Board with its technical assistance authority. The information in this collection will be used by the Board's contractor, Hughes Associates, Inc., to adivse the Board on technologies, methods and procedures

used to evacuate disabled and non-disabled people from federal and high rise office buildings.

Board Form Number: None

Frequency: One-time

Description of Respondents: Building Managers and Nonprofit Institutions

Annual Responses: 1,000

Annual Burden Hours: 235

Board Clearance Officer: Laurinda Steele

Date: October 29, 1987.

Margaret Milner,

Executive Director.

[FR Doc. 87-25499 Filed 11-3-87; 8:45 am]

BILLING CODE 6820-BP-M

CIVIL RIGHTS COMMISSION

New York State Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York State Advisory Committee to the Commission will convene at 3:30 p.m. and adjourn at 6:00 p.m. on November 19, 1987, in Room 305-A of the Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York. The purpose of the meeting is to orient new members, discuss civil rights issues in the State, and select topics for projects and monitoring in the new Fiscal Year. A forum will also be held on preparations for the 1990 decennial census and census undercount problems in minority neighborhoods of big cities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Vice Chairperson Setsuko M. Nioshi (718/780-5466, 212/790-4306) or John I. Binkley, Director of the Eastern Regional Division (202/523-5264; TDD 202/376-8117.) Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the 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, October 22, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87-25497 Filed 11-3-87; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 25-87]

Proposed Foreign-Trade Zone and Citrus and Food Product Processing Subzones, Weslaco, TX; Application and Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Weslaco, Texas, requesting authority to establish a general-purpose foreign-trade zone and food processing subzones in Weslaco, Texas, adjacent to the Progreso Customs port of entry. It was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 21, 1987. The applicant is authorized to make this proposal under Senate Bill 1427, State of Texas, 69th Legislature, (July 24, 1985).

The proposed general-purpose zone will involve two sites in Weslaco, some 40 miles northwest of Brownsville (FTZ 62) and 20 miles east of McAllen (FTZ 12), on the U.S./Mexican Border. Site 1 (440 acres) is the Mid Valley Industrial Park located at Airport Drive and U.S. Highway 83. The facility includes the Weslaco Mid Valley Airport and the Hagger Apparel Co. complex. A 125,000 sq. ft. building is under construction. Site 2 (52,000 sq. ft. warehouse) is the Lake Delta Citrus Association site, located at 320 S. Utah.

The general-purpose zone part of the application contains evidence of the need for general-purpose zone services in the Weslaco area. Several firms have expressed an interest in using zone procedures for the storage and processing of articles such as agricultural products, plastics and apparel. No specific manufacturing approvals are being sought for the general-purpose zone sites at this time. Such requests would be made to the Board on a case by case basis.

The proposal also requests authority for three subzones for food processing operations. Two of them have facilities for inspection, sorting and packing fresh fruits and vegetables from the United States and Mexico for reexport and for the domestic market. These sites are located in Weslaco at the McManus Produce Company facility (9.5 acres), Highway 83/Airport Drive, and the Gulf DeBruyn facility (5.3 acres), 504 East Railroad Street. The third subzone is at the Texsun Corporation facility (35 acres), located at Border Avenue/Railroad Street. It is used to blend, dilute, and package both concentrated and single strength grapefruit and orange juices sourced abroad.

Zone procedures would allow the food processing subzones to avoid Customs duty payments on foreign products that are reexported. On domestic shipments the companies would be able to defer duty payments and avoid them on spoiled products. At the third site Texsun wishes to use zone procedures to pay the duty rate on single strength citrus jucie (20¢ per gallon). The duty rate on concentrated jucie is 35¢ per single-strength-gallon equivalent.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis puccinelli, (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Don Gough, Deputy Assistant Regional Commissioner, Inspection & Control, U.S. Customs Service, Southwest Region, 5850 San Felipe St., Houston, TX 77057-3012; and Colonel John A. Tudela, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, TX 77553-1229.

As part of its investigation, the examiners committee will hold a public hearing on December 9, 1987, beginning at 10:00 a.m., in the auditorium of the Weslaco Public Library, 525 South Kansas Avenue, Weslaco, TX 78596.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by November 30. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through January 11, 1988.

A copy of the application is available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, Rt. 2 Box 600, Progresso, TX 78579

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Ave, NW., Washington, DC 20230

Dated: October 28, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87-25564 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-588-038]

Bicycle Speedometers From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 31, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on bicycle speedometers from Japan. The review covers eleven manufacturers and/or exporters of this merchandise to the United States and generally the period April 1, 1978 through October 31, 1984.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the one comment received, the final results are unchanged for those presented in the preliminary results of review.

EFFECTIVE DATE: November 4, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 38582) the preliminary results of its administrative review of the antidumping finding on bicycle speedometers from Japan (37 FR 24826, November 22, 1972). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of bicycle speedometers currently classifiable under item numbers 711.9300, 711.9820, and 732.4200 of the Tariff Schedules of the United States Annotated and Harmonized System numbers 9029.20.20, 9029.90.40, and 9029.10.80.

The review covers eleven manufacturers and/or exporters of Japanese bicycle speedomters to the United States and generally the period April 1, 1978 through October 31, 1984.

Analysis of Comment Received

We invited interested parties to comment on the preliminary results. We received a comment from one respondent.

Comment: Diversified Products Corporation ("D.P."), an importer, contends that its entries of double gear hub drive speedometers prior to July 2, 1982, the date of the ITA's final determination which included double gear units in the scope of the finding, should not be subject to assessment of dumping duties. Prior to July 2, 1982, the ITA had specifically excluded double gear hub drive speedometers from the finding. D.P. asserts that duties were intended to be imposed on a prospective basis after an affirmative determination and, therefore, the ITA cannot retroactively assess duties on entries made prior to July 2, 1982.

Department's Position: On July 2, 1982, the Department published in the **Federal Register** (47 FR 28979) the final results of its administrative review of the antidumping finding on bicycle speedometers from Japan. In that notice we revised our preliminary decision about double gear hub drive speedometers and ruled that they are within the scope of the finding. In that decision, rather than amending, we merely clarified the scope of the original finding; that is, the scope of the 1972 finding includes double gear hub drive speedometers, and any shipments to the U.S. of this merchandise since 1972 are of the same class or kind of merchandise as that originally investigated in 1972. Entries of this merchandise during this period of review are, therefore, properly subject to the assessment of dumping duties.

Final Results of the Review

Based on our analysis of the comment received, the final results have not changed from those presented in the preliminary results of review, and we determine that the following margins exist:

Manufacturer/Exporter/Importer	Time period	Margin (percent)
Asahi Keiki Mfg. Co./Noma Enterprises Co., Ltd.	04/01/78—10/31/81	6.62
	11/01/81—10/31/82	0
Asahi Keiki Mfg. Co./Royal Industries Ltd.	04/01/78—10/31/81	5.83
	11/01/81—10/31/82	0
Asahi Keiki Mfg. Co./Yagami Corporation	04/01/80—10/31/81	6.15
	11/01/81—10/31/82	3.14
	11/01/82—10/31/83	0.15
	11/01/83—10/31/84	0
Asahi Keiki Mfg. Co./N.S. International/Perfection Company	04/01/78—10/31/80	0.05
	11/01/80—10/31/83	0
Asahi Keiki Mfg. Co./N.S. International/Diversified Products Corp.	11/01/81—10/31/83	0
	11/01/83—10/31/84	0.26
Asahi Keiki Mfg. Co./N.S. International/Allegheny International	11/01/82—10/31/84	0
Asahi Keiki Mfg. Co./N.S. International/Roadmaster Corporation	11/01/82—10/31/84	0
Asahi Keiki Mfg. Co./N.S. International/Chaparal Co.	04/01/78—10/31/81	0
Asahi Keiki Mfg. Co./N.S. International/Ajay Co.	04/01/78—10/31/84	0
Asahi Keiki Mfg. Co./N.S. International/Frabil	04/01/78-10/31/81	1.52
	11/01/81—10/31/82	0
Asahi Keiki Mfg. Co./N.S. International/AMF/Wheel Co.	04/01/78—10/31/81	0
Tsuyama Mfg. Co., Ltd.	11/01/82—10/31/84	0
Tsuyama Mfg. Co., Ltd./Kozaki Trading Co., Ltd.	11/01/82—11/31/84	0
Tsuyama Mfg. Co., Ltd./Yagami Corporation	11/01/82—10/31/84	0
Tsuyama Mfg. Co., Ltd./Kuwahara Co., Ltd.	11/01/83—10/31/84	0
Tsuyama Mfg. Co., Ltd./H. Tano & Co., Ltd.	11/01/82—10/31/83	0
	11/01/83—10/31/84	0.14
Tsuyama Mfg. Co., Ltd./Mitsui & Co.	11/01/82—10/31/84	0
Tsuyama Mfg. Co., Ltd./Shinwa Trading Co., Ltd.	11/01/82—10/31/84	0

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based upon the most recent of the above margins shall be required for these firms. For any shipments from the remaining known manufacturers and/or exporters not covered by this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms (52 FR 11720, April 10, 1987). For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments of Japanese bicycle speedometers occurred after October 31, 1984 and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 17.74 percent shall be required. These deposit requirements are effective for all shipments of Japanese bicycle speedometers entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

Since the margins for Asahi Keiki Mfg. Co./N.S. International/Diversified Products Corp. and Tsuyama Mfg. Co., Ltd./H.Tano & Co., Ltd. are less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department shall not require a cash deposit for these firms.

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 § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

October 27, 1987.

[FR Doc. 87-25565 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-301-001]

Leather Wearing Apparel From Colombia; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Terminate Suspended Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of intention to review and preliminary results of changed circumstances administrative review and tentative determination to terminate suspended investigation.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review of the countervailing duty order on leather wearing apparel from Colombia. The signatory to the revised suspension agreement no longer accounts for over 85 percent of Colombian leather wearing apparel exports to the United States, and the agreement no longer meets the requirements of section 704(b) of the Tariff Act of 1930. Therefore, we tentatively determine to terminate this suspended investigation and resume the investigation. We invite interested parties to comment on these preliminary results and tentative determination to terminate.

EFFECTIVE DATE: November 4, 1987.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On April 2, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 19963) a notice suspending the countervailing duty investigation on leather wearing apparel from Colombia. On December 8, 1986, the Department published the final results of its last administrative review of the suspended investigation and a revised suspension agreement (51 FR 44199). The Department revised the agreement to substitute a new exporter, Astrakan Ltda., for the original signatory, Confecciones Amazonas Orinoco, which had gone out of business. At the time of the revised agreement, Astrakan accounted for over 85 percent of Colombian leather wearing apparel exports to the United States.

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") by January 1, 1988. 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 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 Colombian men's, boys', women's, girls' and infants' leather coats, jackets and other leather wearing apparel (such as vests, pants and shorts), as well as parts and pieces thereof. Such merchandise is currently classifiable under TSUSA item numbers 791.7620, 791.7640, and 791.7660. These products are currently classifiable under HS item number 4203.10.40-0. The review covers the period from December 8, 1986, the effective date of the revised suspension agreement.

Preliminarily Results of Review and Tentative Determination

As a result of our review, we preliminary determine that Astrakan, the signatory to the suspension agreement, no longer accounts for over 85 percent of Colombian leather wearing apparel exports to the United States. This is the second time that a signatory's exports have fallen below the requirement that it account for over 85 percent of Colombian leather wearing apparel exports to the United States. Consequently, we preliminarily determine that the suspension agreement is administratively unenforceable. We further preliminarily determine that the agreement no longer meets the requirements of section 704(b) of the Tariff Act of 1930 ("the Tariff Act"), and that this is a reasonable basis for terminating the suspended investigation. As provided by section 704(i)(1)(B) of the Tariff Act, should we terminate the suspended investigation, we will resume the investigation as if the affirmative preliminary determination under section 703(b) were made on the effective date of the termination.

We tentatively determine to terminate the suspended investigation on leather wearing apparel from Colombia, effective 90 days prior to the date of publication of the final results of this changed circumstances administrative review.

We intend to instruct the Customs Service, in accordance with section 704(i)(1)(A)(i), to suspend liquidation on all entries of this merchandise entered, or withdrawn from warehouse, for consumption beginning 90 days prior to publication of the notice terminating the agreement. Further, we intend to instruct the Customs Service to require a cash deposit or bond for each such entry of 9.00 percent of the f.o.b. invoice price, the total bounty or grant found in the Department's preliminary affirmative determination (46 FR 3255, January 14, 1981).

Interested parties may submit written comments on these preliminary results and tentative determination to terminate within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication, or the first workday thereafter. The Department will publish the final results of the review and its decision on termination, including its analysis of

issues raised in any such written comments or at a hearing.

This intention to review, changed circumstances administrative review, tentative determination to terminate, and notice are in accordance with sections 704 (b) and (i) and 751 (b) and (c) of the Tariff Act of 1930 (19 U.S.C. 1671c (b) and (c), 1675(b) and (c)) and 19 CFR 355.32, 355.41, 355.42.

Joseph A. Spetrini,

Acting Assistant Secretary, Import Administration.

Date: October 30, 1987.

[FR Doc. 87-25566 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Application for Permit; Sea Arama, Inc. (P84D)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
   a. Name: Sea-Arama, Inc.
   b. Address: P.O. Box 3068, Galveston, Texas 77552
2. Type of Permit: Public Display
3. Name and Number of Marine Mammals:
   Pacific False Killer whales (*Pseudorca crassidens*)
4. Type of Take: Live import
5. Location of Activity: Taigi, Japan
6. Period of Activity: 2 Years

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

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 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;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Carmen J. Blondin,

Director, Office of Trade and Industry Services, National Marine Fisheries Service.

Date: October 28, 1987.

[FR Doc. 87-25505 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Permit Modification; Dr. Daniel P. Costa et al. (P277E)

Modification No. 2 to Permit No. 422

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 422 issued to Dr. Daniel P. Costa, Mr. John M. Francis and Ms. Carolyln B. Heath, Center for Coastal Marine Studies, University of California at Santa Cruz, Santa Cruz, California 95064 on June 22, 1983 (48 FR 29936), as modified on May 28, 1986 (51 FR 20685), is further modified to extend the period of authorized taking for two years.

Section B.7 is deleted and replaced by:

7. This permit is valid with respect to the taking of authorized herein until December 31, 1989.

This Modification becomes effective on October 29, 1987.

Documents submitted in connection with the above Permit and Modification are available for review in the following offices:

Office of Protected Resources and Habitat Programs, 1825 Connecticut Avenue NW., Room 805, Washington, DC., and

Director, Southwest Region, Naional Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Carmen J. Blondin,

Director Office of Trade and Industry Service National Marine Fisheries Service.

Date: October 29, 1987.

[FR Doc. 87-25504 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Proposed Permit Modification; Ms. Janice M. Straley (P263A)

Notice is hereby given that Ms. Janice M. Straley, P.O. Box 273, Sitka, Alaska 99835, has requested a modification of Permit No. 571 issued on November 14, 1986 (51 FR 42127), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216) and the regulations governing endangered species permits (50 CFR Part 217-222).

Permit No. 571 authorizes the taking by inadvertent harassment during the course of observational activities 400 humpback whales (*Megaptera novaeangliae*), 50 killer whales (*Orcinus orca*), and 20 minke whales (*Balaenoptera acutorostrata*) in Southeastern Alaska.

The Permit Holder is requesting that Permit No. 571 be modified to extend the research area to include all of Alaska.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification 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 modification 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 modification 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, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building, Juneau, Alaska 99802.

Date: October 30, 1987.

Carmen J. Blondin,

Director, Office of Trade and Industry Services, National Marine Fisheries Service.

[FR Doc. 87-25573 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

October 30, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 5, 1987. For further information contact Diana Solkoff, 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) 566-6828. 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 increase the previously established 1987 restraint limits for Categories 351, 352 and 359-I. The limits for these categories, which are currently filled, will re-open.

Background

A CITA directive dated December 23, 1986 was published in the **Federal Register** (51 FR 47041) which established import restraint limits for certain cotton, wool and man-made fiber textile products, including Categories 351, 352, 361 and 649, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. Subsequently, CITA directives dated February 24, 1987 (52 FR 6057) and April 17, 1987 (52 FR 13115) established import limits for Categories 359-I and 659-S, respectively, among others, for the same twelve-month period.

In accordance with the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, and at the request of the Govenment of the People's Republic of China, the limits for Categories 351, 352 and 359-I are being increased by application of swing. The limits for Categories 361, 649 and 659-S are being reduced to account for the swing applied to Categories 351, 352 and 359-I.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (49 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

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.

October 30, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives issued to you on December 23, 1986, February 24, 1987 and April 17, 1987 concerning certain cotton, wool and man-made fiber textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on November 5, 1987, the directives of December 23, 1986, ⅛February 24, 1987 and April 17, 1987 are hereby amended to include adjustments to the previously established restraint limits for cotton and man-made fiber textile products in the following categories, as provided under the terms of the bilateral agreement of August 19, 1983, as amended [1]:

Category	Adjusted Twelve-Month Limit [1]
351	370,122 dozen.
352	1,437,869 dozen.
359-I [2]	1,995,000 pounds.
361	2,993,219 numbers.
649	522,421 dozen.
659-S [3]	750,000 pounds.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

[2] In Category 359-I, only TSUSA numbers 384.0439, 384.0441, 384.0442, 384.0444, 384.0805, 384.0810, 384.0815, 384.0820, 384.0825, 384.3451, 384.3452, 384.3453, 384.3454, 384.5162, 384.5163, 384.5167, 384.5169, and 384.5172.

[3] In Category 659-S, only TSUSA numbers 381.2340, 381.3170, 381.9100, 381.9570, 384.1920, 384.2339, 384.8300, 384.8400 and 384.9353.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25525 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-DR-M

Deduction in Charges of Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Haiti

October 30, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, the President's February 20, 1986 announcement of a Special Access Program for textile products assembled in participating Caribbean Basin beneficiary countries from fabric formed and cut in the United States, and pursuant to the requirements set forth in 51 FR 21208 (June 11, 1986) and 52 FR 26057 (July 10, 1987), has issued the directive published below to the Commissioner of Customs to be effective on November 5, 1987. For further information contact Janet Heinzen, International Trade Specialist,

[1] The agreement provides, in part, that: (1) With the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard decrease in one or more other specific limit in that agreement year; (2) the specific limits for certain categories may be increased for carryforward; (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to deduct charges made to the restraint limits established for Categories 340/640, 341/641 and 347/348 for the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. Subsequently, these same amounts will be charged to the guaranteed access levels established for properly certified textile products in Categories 340/640, 341/641 and 347/348 which are assembled in Haiti from fabric formed and cut in the United States and exported from Haiti during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Background

On January 13, 1987 a notice was published in the **Federal Register** (52 FR 1371) announcing import restraint limits for certain cotton and man-made fiber textile products, including Categories 340/640, 341/641 and 347/348, produced or manufactured in Haiti and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

A further notice was published in the **Federal Register** on February 27, 1987 (52 FR 6053) which announced guaranteed access levels for properly certified textile products assembled in Haiti from fabric formed and cut in the United States, including products in Categories 340/640, 341/641 and 347/348.

Documentation has been provided to the U.S. Government establishing that additional goods in Categories 340/640, 341/641 and 347/348, which were charged to the designated consultation levels because of the unavailability of proper documentation (CBI Export Declaration (Form ITA-370P)), were assembled exclusively from U.S. formed and cut fabric and qualified for entry under the guaranteed access levels. Based on this documentation, the U.S. Government has agreed to deduct these charges from the designated consultation levels for Categories 340/640, 341/641 and 347/348. Subsequently, charges will be made to the guaranteed access levels established for Categories 340/640, 341/641 and 347/348, in corresponding amounts.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 30, 1987.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of letters dated September 26, and 30, 1986, between the Governments of the United States and Haiti, I request that, effective on November 5, 1987 you deduct the following amounts from the charges made to the import restraint limits established in the directive of December 31, 1986 for Categories 340/640, 341/641 and 347/348, produced or manufactured in Haiti and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Category	Amount to be deducted
340	4,297 doz.
347	25,860 doz.
348	10,258 doz.
641	1,071 doz.

This letter will be published in the **Federal Register.**

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25526 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufacturered in Mexico

October 30, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 30, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 535-9481. 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 increase the limit for man-made fiber textile products in Category 647/648, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Background

On December 5, 1986 a notice was published in the **Federal Register** (51 FR 43960), as amended on October 13, 1987 (52 FR 38258), which announced import restraint limits for certain cotton, wool and man-made fiber textile products, including Category 647/648, produced or manufactured in Mexico and exported during the current agreement year which began on January 1, 1987 and extends through December 31, 1987. The Bilateral Cotton, Wook and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, between the Governments of the United States and the United Mexican States, under the terms of which this limit was established, also includes provisions for carryover the shortfalls from the previous agreement year in certain categories (carryover). Under the foregoing provisions of the bilateral agreement and at the request of the Government of the United Mexican States, the limit established for Category 647/648 is being increased by application of carryover and special shift for goods exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607, December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068), and in

Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HHC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

October 30, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on November 28, 1986, as amended on October 13, 1987, by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1987, and extends through December 31, 1987.

Effective on October 30, 1987, the directive on November 28, 1986, as amended, is hereby further amended to adjust the previously established limit for man-made fiber textile products in Category 647/648, as provided under the terms of the bilateral agreement of February 26, 1979, as amended and extended [1]:

Category	Adjusted 1987 limit [1]
647/648	1,332,000 dozen or which not more than 864,960 dozen shall be in Category 647 and not more than 864,960 dozen shall be in Category 648.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-25527 Filed 11-3-87; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement provides, in part, that: (1) Specific limits and sublimits may be exceeded by not more than seven percent for swing in any agreement period; (2) these same limits may be adjusted for by carryforward and carryover up to 11 percent of the applicable category limit of sublimit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Defense Initiative Advisory Committee; Meeting

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Strategic Defense Initiative (SDI) Subcommittee (Ground Based Free Electron Laser Technology Integration Experiment Technical Advisory Group) will meet in closed session in White Sands Missile Range, New Mexico, on November 16–17, 1987.

The mission of the Subcommittee is to provide the SDI Advisory Committee an independent analysis and assessment of the plans and approaches for the ground based free electron laser technology integration experiment. At the meeting on November 16–17, 1987 the subcommittee will discuss status of laser research and management issues.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C., App II, (1982)), it has been determined that this SDI Advisory Subcommittee meeting, concerns matters listed in 5 U.S.C., 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 30, 1987.

[FR Doc. 87-25555 Filed 11-3-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Agency Information Collection Activities Under OMB Review

ACTION: Public information collection requirement submitted to OMB for review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information; Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact for whom a copy of the information proposal may be obtained.

Extension

International Military Student Information; DD Form 2339 (OMB No. 0702–0064).

Information is required by U.S. Miltiary Schools in advance of and during attendance to assure integration of International Military Students into U.S. Military Academic environment.

Individual or households.

Responses: 15,000
Burden Hours: 7,500

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Ms. Pearl Rascoe-Harrison, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–1302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained form Ms. Angela R. Petrarca, SAIS–ADR, Room 1C638, The Pentagon, Washington, DC 20310–0107, telephone (202) 694–0754.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 30, 1987.

[FR Doc. 87-25556 Filed 11-3-87; 8:45 am]

BILLING CODE 3810-01-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 Weapon Effectiveness Task Force will meet November 18–19, 1987, from 9 a.m. to 5 p.m. at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review the Navy's ability to maximize weapon effectiveness through both

hardware design and tactical employment, and related intelligence. 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 552b(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.

Jane M. Virga,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

Date: October 29, 1987.

[FR Doc. 87-25532 Filed 11-3-87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Education Appeal Board Hearings

AGENCY: Department of Education.

ACTION: Amendment to the notice of application for review accepted for hearing by the Education Appeal Board.

Purpose: This notice amends the prepared summary in the *Appeal of Illinois Department of Rehabilitation Services, Docket No. 2(238)87, ACN: 05-65032,* published in the **Federal Register** on July 2, 1987 (52 FR 25055).

The previous notice incorrectly stated that the Department is seeking a refund of $6,515,897. In fact, the Department is also seeking the refund of $234,812 for improper matching fund calculations.

The Acting Regional Commissioner concluded that the Illinois Department of Rehabilitation Services (Illinois) improperly included costs for the administration of Illinois funded programs in its Vocational Rehabilitation match calculations for 1983, resulting in a $234,812 disallowed program expense. In sum, the Department seeks a refund of $6,750,709. Illinois disputes all liability.

FOR FURTHER INFORMATION CONTACT: The Honorable Ernest C. Canellos, Chairman, Education Appeal Board, 400 Maryland Avenue SW. (Room 1065, FOB-6), Washington, DC 20202. Telephone (202) 732-1756.

(Catalog of Federal Domestic Assistance No. not applicable)

Dated: October 29, 1987.

Peter R. Greer,

Deputy Under Secretary Intergovernmental and Interagency Affairs.

[FR Doc. 87-25523 Filed 11-3-87; 8:45 am]

BILLING CODE 4000-01-M

Office of Educational Research and Improvement

Advisory Council on Education Statistics (ACES); Meeting

AGENCY: Educational Research and Improvement Office, ED.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. 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.

DATE: December 14-15, 1987.

ADDRESS: 555 New Jersey Avenue NW., Room 326, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Iris Silverman, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, Room 400J, Washington, DC 20208. Telephone: (202) 357-6831.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93-380. The Council is established to review general policies for the operation of the Center for Education Statistics (CES) in the Office of Educational Research and Improvement and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence. The meeting of the Council is open to the public.

The proposed agenda includes the following:

- Planning A Study of School Dropouts.
- CES Evaluation Studies to Improve Data Quality.
- 1990 NAEP/SASS—Analyses issues and design considerations.
- Council Business—Development of the Annual Report.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue NW., Room 400J, Washington, DC 20208.

Date: October 29, 1987.

Chester E. Finn, Jr.,

Assistant Secretary and Counselor to the Secretary, Office of Educational Research and Improvement.

[FR Doc. 87-25529 Filed 11-3-87; 8:45 am]

BILLING CODE 4000-01-M

Department of Energy

Federal Energy Regulatory Commission

[Docket Nos. ER88-52-000 et al.]

Florida Power & Light Co. et al.; Electric Rate and Corporate Regulation Filings

Take notice that the following filings have been made with the Commission:

1. Florida Power & Light Company

[Docket No. ER88-52-000]

October 27, 1987.

Take notice that on October 22, 1987, Florida Power & Light Company (FPL) tendered for filing a Stipulation and Agreement executed between FPL and certain of its transmission service, full requirements service, and partial requirements service customers consisting of: Florida Municipal Power Agency, Orlando Utilities Commission, Utilities Commission, City of New Smyrna Beach, City of Homestead, City of Vero Beach, Fort Pierce Utilities Authority, City of Lake Worth, City of Starke, City of Clewiston, City of Key West, City of Green Cove Springs, City of Jacksonville Beach, and the Florida Keys Electric Cooperative, Inc. (Customers). FPL states that the Stipulation and Agreement is intended to comply with the Commission's Order No. 475 in Docket No. RM 87-4 with respect to the effects of the lower marginal federal income tax rate under the Tax Reform Act of 1986.

FPL proposes revised long term transmission service rates (service provided with a duration of more than seven days) to be effective on October 1, 1987. FPL has submitted with this filing amendments to each of the transmission Service agreements pursuant to which FPL provides transmission service to the Customers.

FPL states that the filed Stipulation and Agreement represents an overall compromise in order to satisfy FERC Order 475 in Docket No. RM87-4, which order encourages settlement agreements which take into account the impact of

the reduction in the federal corporate marginal income tax rate.

FPL states that copies of the filing were served upon the Customers and upon the Florida Public Service Commission.

Comment date: November 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Arizona Public Service Company

[Docket No. ER88-53-000]

October 28, 1987.

This notice that on October 23, 1987, Arizona Public Service Company (APS) tendered for filing Amendment No. 1 to the Transmission Agreement between Arizona Public Service Company (APS), and Yuma-Mesa Irrigation and Drainage District (YMIDD).

YMIDD has received an increase in power available from the U.S. Department of Interior, Water and Power Resources Service from 87 kW to 125 kW. The original agreement between APS and YMIDD provides for delivery of a maximum of 86 kW by APS to YMIDD. APS has agreed to increase YMIDD's transmission service to a maximum of 125 kW.

APS, with the concurrence of YMIDD, requests a waiver of the Commission's Notice Requirements so that service under the amended agreement can be made effective on February 1, 1987, when YMIDD's increased allocation of power began.

Copies of this filing are being served upon YMIDD and the Arizona Corporation Commission.

Comment date: November 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Consumers Power Company

[Docket No. ER88-55-000]

October 28, 1987.

Take notice that on October 23, 1987, Consumers Power Company (Consumers Power) tendered for initial filing a Transmission Agreement with Detroit Edison Company. The filed agreement provides for Consumers Power to provide firm transmission service in the City of Pontiac, Oakland County, Michigan, over 120 and 41.6 kV transmission facilities owned by Consumers Power from Detroit Edison's Bloomfield and Walton Substations to nine distribution substations owned by Detroit Edison. The transmission facilities involved in providing such transmission service are isolated from Consumers Power's integrated electric system.

A copy of the filing was served upon Detroit Edison Company.

Comment date: November 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Consumers Power Company

The Detroit Edison Company

[Docket No. EC88-4-000]

October 28, 1987.

Take notice that on October 23, 1987, Consumers Power Company (Consumers Power) and The Detroit Edison Company (Detroit Edison) tendered for filing a joint application for authority for Consumers Power to sell transmission facilities, and for Detroit Edison to acquire such transmission facilities and merge transmission facilities with its own electric facilities.

The transmission facilities which are the subject of the joint application consist of approximately 2 structure miles of 120 kV line and 11¼ structure miles of 41.6 kV line now owned by Consumers Power in the City of Pontiac, Oakland County, Michigan. The transmission facilities are isolated from Consumers Power's integrated system. The sale of the transmission facilities will permit Detroit Edison to own all of the electric facilities utilized to provide retail electric service in the City of Pontiac. Consumers Power and Detroit Edison request approval of the application pursuant to section 203(a) of the Federal Power Act.

Comment date: November 12, 1987, in accordance with Standard Paragraph E at the end of this document.

5. Detroit Edison Company

[Docket No. ER88-54-000]

October 28, 1987.

Take notice that on October 23, 1987, Detroit Edison Company tendered for filing a Notice of Cancellation of its FERC Electric Service Tariff No. 5. The tariff sets forth rates and conditions of service for the sale of electric power and energy to Consumers Power Company for resale at Pontiac, Michigan.

Detroit Edison states that as a result of the sale by Consumers Power of its local distribution facilities and retail electric business in the City of Pontiac to Detroit Edison, no future sales of electricity by Detroit Edison to Consumers Power for resale at Pontiac are anticipated after October 2, 1987.

Copies of the filing were served upon Consumers Power Company and the Michigan Public Service Commission.

Comment date: November 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Kentucky Utilities Company

[Docket No. ER88-11-000]

October 28, 1987.

Take notice that on October 15, 1987, Kentucky Utilities Company (KU) tendered for filing an amendment to its unilateral filing, dated September 29, 1987, with the Federal Energy Regulatory Commission to modify or amend two agreements. The agreements were between 1) KU and Ohio Valley Electric Corporation (OVEC) and 2) KU and Tennessee Valley Authority (TVA). KU now requests withdrawal of the portion of the filing as relates to the KU-OVEC modification to that agreement.

Comment date: November 12, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25568 Filed 11-3-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP84-474-001 et al.]

American Distribution Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. American Distributions Company (Alabama Division)

[Docket No. CP84-474-001]

October 27, 1987.

Take notice that on October 22, 1987, American Distribution Company (Alabama Division) (Applicant) filed in Docket Nos. CP84-474-001 and CP86-263-001 an application pursuant to section 7(c) of the Natural Gas Act for amendments to its certificates to increase deliveries authorized in Docket

No. CP84-474-000 and to extend the term of the authorization granted in Docket No. CP86-263-000, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant requests that the term of the certificate granted in Docket No. CP86-263-000 which authorized Applicant to transport up to 3,000 Mcf per day to the municipal facilities of the City of Citronelle, Alabama, for ultimate delivery to Kerr-McGee Corporation, an industrial customer situated near Citronelle's system, be extended to be coterminous with the life of production from the Copeland plant, Washington County, Alabama operated by Collet Ventures, Inc. Applicant also seeks an amendment to its transportation certificate issued in Docket No. CP84-474-000 to increase deliveries at an existing point of interconnection with the facilities of Florida Gas Transmission Company to up to 10,000 Mcf per day. No other changes are proposed.

Comment date: November 20, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. National Fuel Gas Supply Corporation

[Docket No. CP86-292-001]

October 28, 1987.

Take notice that on October 19, 1987, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed a Petition to Amend the Commission's order issued June 16, 1986, in this proceeding to recognize a change in the pipeline route originally selected by National Fuel, all as more fully set forth in the Petition which is on file with the Commission and open to public inspection.

It is stated that National Fuel has been authorized to replace 1.78 miles of its pipeline, designated as Line K, located in the Town of West Seneca, Erie County, New York, with 1.61 miles on new 20-inch coated steel line. Also, National Fuel further was authorized to abandon and replace an existing regulator station with a new facility. The total estimated cost of the project was $556,000.

National Fuel states that as originally conceived, the replacement segment would have been routed along a power corridor owned by Niagara Mohawk Power Corporation (Niagara Mohawk), National Fuel however, was denied access to this corridor. Instead, it is stated that National Fuel has selected a revised route which parallels more closely to a segment of its existing pipeline. National Fuel now proposes to install 1.45 miles of new 20-inch line at an estimated cost of $548,000.

Comment date: November 20, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Northern Natural Gas Company, a Division of Enron Corporation

[Docket No. CP88-36-000]

October 28, 1987.

Take notice that on October 20, 1987, Northern Natural Gas Company, a Division of Enron Corporation (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP88-36-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to modify one delivery point and appurtenant facilities to accommodate natural gas deliveries to Peoples Natural Gas Company (Peoples), under Northern's blanket authority in Docket No. CP82-401-000 and § 157.212 of the Commission's Rules and Regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Northern requests authority to modify North Branch TBS No. 1, a town border station (TBS) located in Section 21, T35N, R21W, Chisago County, Minnesota. It is stated that Peoples has informed Northern that the subject TBS has expanded substantially in recent years, with a subsequent load increase due to additioal residential, commercial, and industrial customers. Northern proposes to modify the existing TBS in order to serve the increased requirements of Peoples and its customers. Northern states such modification would consist of installing a Rockwell T-18 meter. The cost of the proposed facility modifications is estimated at $7,397.

Comment date: December 14, 1987, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP88-27-000]

October 28, 1987.

Take notice that on October 16, 1987, Tennessee Gas Pipeline Company (Applicant), a Division of Tenneco Inc., P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-27-000 a request pursuant to § 284.223 of the Commission's Regulations for authorization to provide a transportation service for Union Texas Petroleum Corporation (Union Texas), a producer under Applicant's blanket certificate issued in Docket No. CP87-118-000 on June 18, 1987, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation agreement dated August 27, 1987, it proposes to transport natural gas for Union Texas from a point of receipt located in Vermilion Block 225, offshore Louisiana, to delivery points at Egan B and Egan D, interconnections with Columbia Gulf Transmission Company (Columbia Gulf) and Texas Gas Transmission Corporation (Texas Gas), the downstream transporters. It is stated that the ultimate consumers of the gas would be various short-term markets off the systems of Columbia Gulf and Texas Gas.

Applicant indicates that the maximum daily and annual quantities would be 80,000 dekatherms and 7,904,440 dekatherms, respectively. It is further stated that service under § 284.223(a) commenced September 1, 1987, as reported in Docket No. ST88-106.

Comment date: December 14, 1987, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requriements 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 proedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25569 Filed 11-3-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF88-21-000 et al.]

Altresco-Pittsfield, Inc., 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.

Take notice that the following filings have been made with the Commission.

1. Altresco-Pittsfield, Inc.

[Docket No. QF88-21-000]

October 27, 1987.

On October 13, 1987, Altresco-Pittsfield, Inc. (Applicant) of 264A South Monaco Parkway, Denver, Colorado 80224, submitted for filing an 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 topping-cycle cogeneration facility will be located on property leased from and owned by General Electric Company (G.E.) within its Pittsfield, Massachusetts, facility. The cogeneration facility will consist of three combustion turbine generator sets, three heat recovery steam generators and one extraction/condensing steam turbine generator. Extraction steam from the steam turbine will be used for G.E. plant process operations and for A.C. Chiller operation. The maximum net electric power production capacity of the facility will be 156.6 MW. The primary energy source will be natural gas. The facility is expected to commence operation on October 1, 1990.

2. Five Points Biomass Power Plant Associates

[Docket No. QF88-19-000]

October 27, 1987.

On October 9, 1987, Five Points Biomass Power Plant Associates (Applicant), of Building C, Suite 28, 1620 Carpenter Road, Modesto, California 95352 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Fresno County, California. The facility will consist of atmospheric fluidized bed combustion steam generator and a steam turbine generator. The net electric power production capacity will be 11 megawatts. The primary energy source will be biomass in the form of agricultural waste (almond tree prunings, wheat straw, corn straw, barley, etc.). Approximately 0.66% of the total energy input during any calendar year period will be from propane gas which will be used for ignition, start-up, flame stabilization and control uses.

3. Redding Power

[Docket No. QF87-370-001]

October 28, 1987.

On October 16, 1987, Redding Power, a Joint Venture (Applicant), of 1900 Churn Creek Road, Suite 308, Redding, California 96002 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 small power production facility will be located in Shasta, California. The facility will consist of two wood-fired steam generators and a single steam turbine/generator, with a net electric power production capacity of 23 MW. The primary energy source for the facility will be biomass in the form of wood waste.

By order issued June 9, 1987, the Director of the Office of Electric Power Regulation granted certification to the facility as a small power production facility under Docket No. QF87-370-000.

Recertification is requested in order to report the following changes. Firstly, 80-100 percent (not 80 percent) of the biomass fuel will come from a sawmill located adjacent to the facility. Secondly, the percentage of utility ownership interests in the facility have increased from 31.66% to 49.99%. Thirdly, the usage of natural gas will increase from one to two percent of the total energy input of the facility during any calendar year period. The usage of natural gas will now extend to include flame stabilization/emission control, and supplemental firing during single-boiler facility operation. All other characteristics of the facility remain unchanged.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-25570 Filed 11-3-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-3286-9]

Fuel Economy Retrofit Devices

Announcement of Fuel Economy Retrofit Device Evaluation for the "Emission Control Device" of DeAcc Devices, (DeAcc ECD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of fuel economy retrofit device evaluation.

SUMMARY: This document announces the completion of the EPA evaluation of the

DeAcc ECD devide under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act. The notice also announces our findings, conclusions, and the availability of the report.

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, Office of Mobile Sources, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone: (313) 668-4299.

SUPPLEMENTARY INFORMATION:

I. Background

Section 511(b)(1) and section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) "Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate."

(c) "The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) The effect of any retrofit device on fuel economy;

(2) The effect of any such device on emissions of air pollutants; and

(3) Any other information which the Administrator determines to be relevant in evaluating such device."

EPA published final regulations establishing procedures for conducting evaluations of fuel economy retrofit devices on March 23, 1979 [44 FR 17946].

II. Origin of Request for Evaluation, Device Descriptions and Report Identification

On February 7, 1987, the EPA received a request from DeAcc Devices, Inc. for evaluation of the DeAcc ECD as a fuel saving device with reduced emissions. This device consists of a small gas mixing chamber with lines that are connected to the air intake, exhaust manifold, intake manifold and PCV valve of the engine. The device is claimed to reduce emissions and improve fuel economy by completely burning the blow-by gases.

Report: "EPA Evaluation of the Emission Control Device of DeAcc Devices, Inc. (DeAcc ECD) Under section 511 of the Motor Vehicle Information and Cost Savings Act". Report Number EPA-AA-TEB-511-87-1 contains the analysis and conclusions and consists of 17 pages plus attachments A-Q."

As part of the evaluation process, the applicant conducted screening tests at an independent laboratory using EPA approved protocols. This independent laboratory testing is described in this report.

III. Availability of Evaluation Reports

Copies of this report may be obtained from the National Technical Information Service by using the above report numbers. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone: (703) 487-4650 or FTS 737-4650.

IV. Summary of Evaluation

EPA fully considered all of the information submitted by the device manufacturer in the Application. The evaluation of the DeAcc ECD was based on that information and the results of the screening tests conducted for the applicant at an independent laboratory using EPA approved protocols. These tests consisted of replicate Federal Test Procedure (FTP) and Highway Fuel Economy Tests (HFET) on two vehicles both with and without the device.

The FTP and HFET test data were analyzed by the analysis of variance (ANOVA) technique to determine if the data indicated that there was a statistically significant difference in emissions or fuel economy due to the device. For the FTP And HFET, although the device reduced NO_x emissions, there was an increase in FTP CO emissions and a fuel economy penalty for the FTP. The HFET CO emissions indicated an overall improvement; however, one of the two vehicles showed an increase in CO emissions. The increase in HC emissions for both driving cycles and changes in HFET fuel economy for the device were not statistically significant.

Since vehicles are designed to meet the emission standards for HC, CO, and NO_x our policy in evaluating emissions and/or fuel economy devices is that a device must not show an adverse effect in any emissions and fuel economy tests and second must show a significant improvement. Clearly, the DeAcc device did not pass these criteria and thus, EPA did not proceed to the in-house testing phase. The NO_x reduction with the device can reasonably be attributed to the increase in exhaust gas recirculation (EGR) rather than the postulated catalytic reactions in the copper line of the device. This effect on NO_x could be achieved by recalibrating the EGR valve.

The overall conclusion is that the DeAcc device did not improve emissions or fuel economy.

Date: October 28, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 87-25536 Filed 11-3-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-009735-019.

Title: Steamship Operators Intermodal Committee.

Parties:

Associated Container Transportation (Australia Ltd.)
Barber Blue Sea Line
Companhia de Navegacao Maritima Netumar
Coordinated Caribbean Transport, Inc.
Evergreen Marine Corp., Ltd.
Farrell Lines, Inc.
Flota Mercante Grancolombiana
Hamburg-Suedamerikknische-Dampfschiffahrts-Gesellschaft
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Lykes Bros. Steamship Co., Inc.
A.P. Moller-Maersk Line
Neptune Orient Lines Ltd.
Nippon Yusen Kaisha, Ltd.
Sea-Land Service, Inc.
South African Marine Corp.
United States Lines, Inc.
Venezuelan Line
Yamashita-Shinnihon Steamship Co. Ltd.
Yang Ming Line
Zim Israel Navigation Co. Ltd.
American President Lines, Ltd.
Mitsui O.S.K. Lines, Ltd.

Showa Line, Ltd.
Trans Freight Lines
Atlantic Container Line (BV)

Synopsis: The proposed amendment would delete Seapac Services, Inc. as a party to the agreement.

Agreement No.: 202-010979-008.
Title: Caribbean Shipowners Association.
Parties:
Tropical Shipping & Construction Co., Ltd.
Tecmarine Lines
Sea-Land Service, Inc.
Bernuth Line, Ltd.
Trailer Marine Transport Corporation
Interline Connection, Inc.
Puerto Rico Maritime Shipping Authority
Sea-Barge Group, Inc.

Synopsis: The proposed amendment would add a new Puerto Rico section to the agreement and would provide that only members offering service to the islands covered by a particular section may vote on matters concerning that section.

Agreement No.: 203-011154.
Title: West Coast South and Central America/West Coast United States Discussion Agreement.
Parties:
Empresa Lineas Maritimas Argentinas S.A.
Naviera Interamericana Navicana S.A.

Synopsis: The proposed agreement would permit the parties to meet, discuss and agree upon rates, tariffs, service items, rules and service contracts in the trade between United States Pacific Coast ports and points, and ports and points in Chile, Peru, Ecuador, Central America and Mexico. Adherence to any agreement reached would be voluntary.

By Order of the Federal Maritime Commission.

Joseph C. Polking,
Secretary.

Dated: October 30, 1987.

[FR Doc. 87-25521 Filed 11-3-87; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

October 30, 1987.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

For Further Information Contact

Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822).

OMB Desk Officer—Robert Fishman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503 (202-395-7340).

Proposal to Approve Under OMB Delegated Authority the Discontinuance of the Following Report

1. *Report title:* Report of Other Demand Deposits.
Agency form number: FR 2019.
OMB Docket number: 7100-0059.
Frequency: Daily.
Reporters: Foreign-related institutions in New York City.
Annual reporting hours: 1,404.
Small businesses are not affected.

General Description of Report:

This report contains daily levels of "other demand deposits" for 26 foreign-related institutions in New York City. These desposits, available with only a two-day lag, are used in projecting a component of M1. The need for this report has been reduced, owing to a substantial improvement in projection procedures.

This information collection is authorized by law [12 U.S.C. 248(a), 353 *et seq.*, 3105(b)(2). Individual respondent data are exempt from disclosure [5 U.S.C. 552(b)(4)].

Board of Governors of the Federal Reserve System, October 30, 1987.

William W. Wiles,
Secretary of the Board.

[FR Doc. 87-25541 Filed 11-3-87; 8:45 am]
BILLING CODE 6210-01-M

Amsterdam-Rotterdam Bank N.V.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompained by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 20, 1987.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Amsterdam-Rotterdam Bank N.V.*, Amsterdam, The Netherlands; to acquire DP Asset Management, Inc., Wilmington, Delaware, and thereby engage in providing investment advisory and discretionary portfolio management services to high net worth individuals pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 30, 1987.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 87-25592 Filed 11-3-87; 8:45 am]
BILLING CODE 6210-01-M

First Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12

CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 27, 1987.

A. **Federal Reserve Bank of Atlanta.** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Bancshares, Inc.*, Grove Hill, Alabama; to acquire 100 percent of the voting shares of Jackson Bank & Trust Company, Jackson, Alabama.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Bancorp of Delavan, Inc.*, Delavan, Wisconsin; to become a bank holding company by acquiring at least 80 percent of the voting shares of Citizens Bank of Delavan, Delavan, Wisconsin.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Landmark Bancshares Corporation*, St. Louis, Missouri, and Landmark Acquisition Corporation II, St. Louis, Missouri; to acquire Eagle Bancorporation, Inc., Highland, Illinois; and thereby indirectly acquire Eagle Bank, Highland, Illinois; Eagle Bank of Charleston, Charleston, Illinois; Eagle Bank of Madison County, Glen Carbon, Illinois; Eagle Bank of Washington County, N.A., Nashville, Illinois; and Eagle Bank of Randolph County, Sparta, Illinois. In connection with this application, Landmark Acquisition Corporation II, St. Louis, Missouri, has also applied to become a bank holding company.

D. **Federal Reserve bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Abbott Bank Group, Inc.*, Alliance, Nebraska, and Guardian State Bank and Trust Company, Alliance, Nebraska; to merge with Anchor Banshares, Inc., Merriman, Nebraska, and thereby indirectly acquire The Anchor Bank, Merriman, Nebraska; Chadron Banshares, Inc., Chadron, Nebraska, and thereby indirectly acquire Bank of Chadron, Nebraska; Gordon State Banshares, Inc., Gordon, Nebraska, and thereby indirectly acquire Gordon State Bank, Gordon, Nebraska; Hyannis Banshares, Inc., Hyannis, Nebraska, and thereby indirectly acquire Bank of Hyannis, Hyannis, Nebraska; Mullen Banshares, Inc., Mullen, Nebraska, and thereby indirectly acquire Bank of Mullen, Nebraska; Thedford Banshares, Inc., Thedford, Nebraska, and thereby indirectly acquire Citizens State Bank, Thedford, Nebraska, and Valentine State Banshares, Inc. Valentine, Nebraska, and thereby indirectly acquire Bank of Valentine, Valentine, Nebraska. In connection with this merger, Applicant will also acquire Bridgeport Banshares, Inc., Bridgeport, Nebraska, and thereby acquire Bridgeport State Bank, Bridgeport, Nebraska, of which 80 percent is owned by the parties to the merger.

Board of Governors of the Federal Reserve System, October 30, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25543 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 18, 1987.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota, and its subsidiaries, Norwest Financial Services, Inc., Des Moines, Iowa; Norwest Financial Inc., Des Moines, Iowa; and Norwest Agencies, Inc., Des Moines, Iowa; to acquire Bain Insurance, Inc., Bismarck, North Dakota, and thereby engage in general insurance agency activities pursuant to § 225.25(b)(8)(vii) of the Board's Regulation Y. These activities will be conducted in communities including and surrounding Bismarck, North Dakota.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25471 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

Harry W. Mack et al.; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available

for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 18, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Harry W. Mack*, Bedford, Ohio; to acquire 12.85 percent of the voting shares of Independence Bancorp, Independence, Ohio, and thereby indirectly acquire Independence Bank, Independence, Ohio.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Darvin D. Hauff*, Hunter, North Dakota; to acquire 4.75 percent; Robert C. Lauf, Fargo, North Dakota, to acquire 4.75 percent; James R. Dawson, Fargo, North Dakota, to acquire 4.75 percent; and Robert D. Dawson, Fargo, North Dakota, to acquire 6 percent of the voting shares of Hunter Holding Company, Hunter, North Dakota, and thereby indirectly acquire Security State Bank of Hunter, Hunter, North Dakota, and First State Bank of Hope, Hope, North Dakota.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *James M. Wilson Trust*, Durant, Oklahoma (Helen W. Wilson Sedlmeir and Susie Scibek Terrell, both of Durant, Oklahoma, co-trustees); to acquire 49.38 percent of the voting shares of Southeastern Oklahoma Bancorporation, Inc., Boswell, Oklahoma, and thereby indirectly acquire Boswell State Bank, Boswell, Oklahoma.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Richard J. Meyer*, Fullerton, California; to acquire 2.78 percent of the voting shares of Pacific Inland Bancorp, Anaheim, California, and thereby indirectly acquire Pacific Inland Bank, Anaheim, California.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25472 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

National Westminster Bank PLC; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 18, 1987.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *National Westminster Bank PLC*, London, England, and Natwest Holdings, Inc., New York, New York; to engage *de novo* through their subsidiary, County Natwest International Securities, Inc., New York, New York, in making and servicing loans or other extensions of credit for their account and for the account of others pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25473 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

PNC Financial Corp, Formation of, Acquisition by, or Merger of Bank Holding Companies and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of

Governors not later than November 25, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp,* Pittsburgh, Pennsylvania; to acquire the successor by merger to Central Bancorporation, Inc., Cincinnati, Ohio, and thereby indirectly acquire Central Trust Company, N.A., Fort Wright, Kentucky; Central Trust Company, Union, Kentucky; Central Trust Company of N.E. Ohio, Canton, Ohio; Central Trust Company, N.A., Cincinnati, Ohio; Central Trust Company of North Ohio, Lorain, Ohio; Central Trust Company of S.E. Ohio, Marietta, Ohio; and Central Trust Company, Newark, Ohio. In connection with this application, New Financial Corp. has applied to become a bank holding company by merging with Central Bancorporation.

In connection with this application, Applicant also proposes to acquire The CentralBanc Mortgage Company, Cincinnati, Ohio, and thereby engage in mortgage banking activities pursuant to § 225.25(b)(1) of the Board's Regulation Y; and The Shawnee Life Insurance Company, Cincinnati, Ohio, and thereby engage in reinsuring credit life insurance issued in connection with extensions of credit by the Central Bancorporation, Inc. banking subsidiaries pursuant to § 225.25(b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25474 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

Quad County Bancshares, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 25, 1987.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Quad County Bancshares, Inc.,* Viburnum, Missouri; to acquire Viburnum Insurance Services, Inc., Viburnum, Missouri, and thereby engage in acting as general insurance agent in Viburnum, Missouri, which has a population not exceeding 5,000, pursuant to § 225.25(b)(8) of the Board's Regulation Y.

B. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *MCorp,* Dallas, Texas, and MCorp Financial, Inc., Wilmington, Delaware; to acquire Dave M. Boren, Inc., d/b/a/ Management Information Resources, Inc., Lubbock, Texas, and Indiana Information Controls, Inc., Valparaiso, Indiana, and thereby engage in providing to others financial related data processing and data transmission services, facilities, and data bases, or access to them pursuant to § 225.25(b)(7) of the Board's Regulation Y.

2. *MCorp,* Dallas, Texas, and MCorp Financial, Inc., Wilmington, Delaware; to acquire 100 percent of Security Courier Corporation, Carrollton, Texas, and certain assets and certain liabilities of Coben Investments, Inc., Carrollton, Texas; Security Services, Inc., Carrollton, Texas; Transaction Services Corporation, Carrollton, Texas; and Bank Air Transport Corporation, Carrollton, Texas; and thereby engage in providing ground and air courier services for financial institutions and commercial businesses pursuant to § 225.25(b)(10) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25475 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

Trustcorp, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 25, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *TrustCorp, Inc.,* Toledo, Ohio, and TrustCorp of Michigan, Inc., Adrian, Michigan; to acquire 100 percent of the voting shares of Ypsilanti Savings Bank, Ypsilanti, Michigan. Comments on this application must be received by November 18, 1987.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice president) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Citizens Bancgroup, Inc.,* Valley, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank of Shawmut, Valley, Alabama.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Duco Bancshares, Inc.*, Villa Park, Illinois; to acquire 93.59 percent of the voting shares of Community Bank of Galesburg, Galesburg, Illinois.

2. *Exchange International Corporation*, Chicago, Illinois; to acquire 100 percent of the voting shares of River Oaks Bancorp, Inc., Calumet City, Illinois, and thereby indirectly acquire River Oaks Bank & Trust Company, Calumet City, Illinois. Comments on this application must be received by November 23, 1987.

D. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First National Bank of Bemidji Employee Stock Ownership Plan and Trust*, Bemidji, Minnesota; to become a bank holding company by acquiring an additional 17.18 percent of the voting shares of First Bemidji Holding Company, Bemidji, Minnesota, and thereby indirectly acquire First National Bank of Bemidji, Bemidji, Minnesota.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25476 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

Union Planters Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than November 25, 1987.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Union Planters Corporation*, Memphis, Tennessee; to acquire an additional 15.21 percent of the voting shares of Bank of East Tennessee, Knoxville, Tennessee.

Board of Governors of the Federal Reserve System, October 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-25477 Filed 11-3-87; 8:45 am]

BILLING CODE 6210-01-M

OFFICE OF INDEPENDENT COUNSEL

Privacy Act of 1974; Systems of Records

AGENCY: Office of Independent Counsel.

ACTION: Notice of new system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act, the Office of Independent Counsel hereby gives notice of one of its systems of records.

DATE: Comments must be submitted on or before December 4, 1987.

ADDRESS: Address all comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Pamela Krems, 202-383-8989.

SUPPLEMENTARY INFORMATION: The Office of Independent Counsel operates pursuant to two distinct and separate sources of authority. On December 4, 1986, Attorney General Edwin Meese III filed an application for appointment of an Independent Counsel with the Division for the Purpose of Appointing Independent Counsels of the United States Court of Appeals for the District of Columbia Circuit. On December 19, 1986, the Special Division of the Court of Appeals filed an order appointing Lawrence E. Walsh as Independent Counsel in the Iran/Contra matter. Order Appointing Independent Counsel, *In re Oliver L. North, et al.*, Div. No. 86-6 (Dec. 19, 1986).

On March 5, 1987, Attorney General Meese issued a regulation that created an "Office of Independent Counsel: Iran/Contra" and provided that office with the same jurisdiction and powers that it already possessed under the Ethics in Government Act, 28 U.S.C. 591-598, and the December 19, 1986 court order appointing Independent Counsel Walsh. 52 FR 7270 (Mar. 10, 1987), 9241 (Mar. 23, 1987) (to be codified at 28 CFR Parts 600 and 601). The "Office of Independent Counsel" and the "Office of Independent Counsel: Iran/Contra" are in actuality one and the same office.

Pursuant to the provisions of the Privacy Act of 1974, the Office of Independent Counsel publishes a system of records entitled "Freedom of Information Act/Privacy Act Files (OIC/002)."

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, allows a waiver of its 60-day period in which to review the system. The Office of Independent Counsel has requested a waiver, asking that the system be reviewed within a 30-day period. Therefore, the Office invites the public, OMB, and the Congress to submit written comments about this system. Please submit any comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004, by December 4, 1987.

In accordance with the requirements of the Privacy Act, the Office has provided a report on this system to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: October 29, 1987.

Lawrence E. Walsh,

Independent Counsel.

OIC/001

SYSTEM NAME:

General Files System of the Office of Independent Counsel.

SECURITY CLASSIFICATION:

The highest classification for any record in this system is Top Secret with Sensitive Compartmented Information. Special access program material is contained within the system.

SYSTEM LOCATIONS:

Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004; 26 Federal Plaza, New York, New York 10278; 50 Penn Place, Oklahoma City, Oklahoma 73118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system encompasses matters regarding individuals and entities who relate to the Office of Independent Counsel's investigation of the Iran/Contra matter.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system may include case files, investigatory and litigation material, internal memoranda or reports, exhibits, or other records on a given entity or individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 5 U.S.C. 301, 28 U.S.C. 591–598, 28 CFR 600.1.1–600.1.5 and 44 U.S.C. 3101.

PURPOSES:

This system is maintained for the purpose of conducting an investigation into possible criminal-law violations relating to the Iran/Contra matter.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: (a) In any case in which there is an indication of a violation or potential violation of law or legal obligation, criminal, civil, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law or civil remedy; (b) in the course of investigating the potential or actual violation of any law, criminal, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (c) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with the procedures governing such proceeding or hearing; (d) a record relating to a case or matter may be disseminated to a federal, state, local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (e) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (f) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (g) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (h) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (i) a record may be disseminated to a federal, state, local, foreign, or international law-enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (j) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country apprehending and/or returning a fugitive to a jurisdiction that seeks his return.

Information permitted to be released to the news media and the public may be made available from systems of records maintained by the Office of Independent Counsel unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy or would violate a security or investigatory guideline or mandate.

Information contained in systems of records maintained by the Office of Independent Counsel, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record unless it is determined that release of the specific information would violate a security or investigatory guideline or mandate.

A portion of these records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

These records may be disclosed to members of the judicial branch of the federal government in response to a specific request when disclosure appears relevant to the authorized function of the recipient court.

These records may be disclosed in a proceeding before a court or adjudicative body before which the Office of Independent Counsel is authorized to appear when the Office of Independent Counsel determines that the litigation is likely to affect it, is a party to litigation, or has an interest in litigation and such records are determined by the Office of Independent Counsel to be arguably relevant to the litigation.

The users of this system include attorneys, legal research assistants, FBI agents, IRS agents and other Office personnel.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored in an accredited SCI facility.

RETRIEVABILITY:

Records are retrievable in accordance with Executive Order 12356, and national security information procedures set forth in 28 CFR Part 17.

SAFEGUARDS:

Records are safeguarded in accordance with Executive Order 12356, and national security information procedures set forth in 28 CFR Part 17.

RETENTION AND DISPOSAL:

Records are retained and will be disposed of, if at all, in accordance with established procedures depending upon the classification of the material.

SYSTEM MANAGER(S) AND ADDRESS:

Document Specialist, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004.

NOTIFICATION PROCEDURE:

Address all inquiries to the FOIA/PA Officer, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004. These

records will be exempted from subsections (c) (3) and (4); (d); (e) (1), (2) and (3); (e)(4) (G), (H) and (I); (e) (5) and (8); (f); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), and (k)(5).

RECORD ACCESS PROCEDURES:

Make all requests for access to records from this system in writing to the FOIA/PA Officer. Clearly mark both the letter and the envelope "Privacy Act Request."

CONTESTING RECORD PROCEDURES:

Makes all requests to contest or amend information maintained in the system in writing to the FOIA/PA Officer. State clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include individuals, state, local and foreign governmental agencies as appropriate, the executive and legislative branches of the federal government, and interested third parties.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Office of Independent Counsel has exempted this system from subsections (c) (3) and (4); (d); (e) (1), (2) and (3); (e)(4) (G), (H) and (I); (e) (5) and (8); (f); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), and (k)(5). A proposed rule has been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and is published in today's **Federal Register.** These exemptions apply only to the extent that information in a record pertaining to a particular matter relates to official federal investigations and law-enforcement matters. Those files indexed under an individual's name that concern policy formulation or administrative matters are not being exempted pursuant to 5 U.S.C. 552(j)(2), (k)(2), (k)(2) or (k)(5).

[FR Doc. 87-25374 Filed 11-3-87; 8:45 am]
BILLING CODE 2210-01-M

Privacy Act Systems of Records

AGENCY: Office of Independent Counsel.

ACTION: Notice of new systems of records.

SUMMARY: Pursuant to the provisions of the Privacy Act, the Office of Independent Counsel hereby gives notice of one of its systems of records.

DATE: Comments must be submitted on or before November 4, 1987.

ADDRESS: Address all comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Pamela Krems, 202-383-8989.

SUPPLEMENTARY INFORMATION: The Office of Independent Counsel operates pursuant to two distinct and separate sources of authority. On December 4, 1986, Attorney General Edwin Meese III filed an application for appointment of an Independent Counsel with the Division for the Purpose of Appointing Independent Counsels of the United States Court of Appeals for the District of Columbia Circuit. On December 29, 1986, the Special Division of the Court of Appeals filed an order appointing Lawrence E. Walsh as Independent Counsel in the Iran/Contra matter. Order Appointing Independent Counsel, *In re Oliver L. North, et al.*, Div. No. 86-6 (Dec. 19, 1986).

On March 5, 1987, Attorney General Meese issued a regulation that created an "Office of Independent Counsel: Iran/Contra" and provided that office with the same jurisdiction and powers that it already possessed under the Ethics in Government Act, 28 U.S.C. 591-598, and the December 19, 1986 court order appointing Independent Counsel Walsh. 52 FR 7270 (Mar. 10, 1987), 9241 (Mar. 23, 1987) (to be codified at 28 CFR Parts 600 and 601). The "Office of Independent Counsel" and the "Office of Independent Counsel: Iran/Contra" are in actuality one and the same office.

Pursuant to the provisions of the Privacy Act of 1974, the Office of Independent Counsel publishes a system of records entitled "Freedom of Information Act/Privacy Act Files (OIC/002)."

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, allows a waiver of its 60-day period in which to review the system. The Office of Independent Counsel has requested a waiver, asking that the system be reviewed within a 30-day period. Therefore, the Office invites the public, OMB, and the Congress to submit written comments about this system. Please submit any comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, D.C. 20004, by December 4, 1987.

In accordance with the requirements of the Privacy Act, the Office has provided a report on this system to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: October 29, 1987.

Lawrence E. Walsh,

Independent Counsel.

OIC/002

SYSTEM NAME:

Freedom of Information Act/Privacy Act Files.

SECURITY CLASSIFICATION:

The highest classification for any record in this system is Top Secret with Sensitive Compartmented Information. Special access program material is contained within the system.

SYSTEM LOCATION:

Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, D.C. 20004.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who request disclosure of records pursuant to the Freedom of Information Act, persons who request access to or correction of records pertaining to themselves pursuant to the Privacy Act; and, where applicable, persons about whom records have been requested or about whom information is contained in the requested records.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains copies of all correspondence and internal memoranda related to Freedom of Information and Privacy Act requests, and related records necessary to the processing of such requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 5 U.S.C. 301, 28 U.S.C. 591-598, 28 CFR 600.1.1-600.1.5, and 44 U.S.C. 3101 and is maintained to implement the provisions of 5 U.S.C. 552 and 552a.

PURPOSE(S):

This system is maintained due to the Office of Independent Counsel's investigation into possible criminal-law violations relating to the Iran/Contra matter and in order to assist the Office in connection with matters relating to the Freedom of Information Act and the Privacy Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system may be disseminated as a routine use of such record as follows: (1) A record maintained in this system may be

disseminated to a federal agency that furnished the record for the purpose of permitting a decision as to access or correction to be made by that agency, or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate federal, state, local or foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records contained in systems of records.

A portion of the records from this system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records-management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records contained in this system are stored in an accredited SCI facility.

RETRIEVABILITY:

A record is retrieved by the name of the individual or person making a request for access or correction of records, and, where necessary, in accordance with Executive Order 12356 and national security information procedures set forth in 28 CFR Part 17.

SAFEGUARDS:

Access to physical records is limited to the FOIA/PA Officer and known Office of Independent Counsel personnel who have a need for the record in the performance of their duties. The records are safeguarded and protected in accordance with applicable Office rules and policies, and, where necessary, in accordance with Executive Order 12356 and national security information procedures set forth in 28 CFR Part 17.

RETENTION AND DISPOSAL:

Currently, no provisions for disposal of records contained in this system exist.

SYSTEM MANAGER(S) AND ADDRESS:

FOIA/PA Officer, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004.

NOTIFICATION PROCEDURE:

Address all inquiries to the FOIA/PA Officer, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004. These records will be exempted from subsections (c) (3) and (4); (d); (e) (1), (2) and (3); (e) (4) (G), (H) and (I); (e) (5) and (8); (f); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(1), (k)(2), and (k)(5).

RECORD ACCESS PROCEDURES:

Make all requests for access to records from this system in writing to the FOIA/PA Officer. Clearly mark both the letter and the envelope "Privacy Act Request." These records will be exempted from subsections (c) (3) and (4); (d); (e) (1), (2) and (3); (e)(4) (G), (H) and (I); (e) (5) and (8); (f); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(1), (k)(2), and (k)(5).

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or to amend information contained in the system should direct their request to the FOIA/PA Officer listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are the persons making requests, the systems of records searched in the process of responding to the requests, and other agencies referring requests for access to or correction of records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Office of Independent Counsel has exempted this system from subsections (c) (3) and (4); (d); (e) (1), (2) and (3); (e)(4) (G), (H) and (I); (e) (5) and (8); (f); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(1), (k)(2), and (k)(5). A proposed rule has been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and is published in today's **Federal Register**. These exemptions apply only to the extent that information in a record pertaining to a particular matter relates to official federal investigations and law-enforcement matters. Those files indexed under an individual's name that concern policy formulation or administrative matters are not being exempted pursuant to 5 U.S.C. 552 (j)(2), (k)(1), (k)(2) or (k)(5).

[FR Doc. 87-25375 Filed 11-3-87; 8:45 am]
BILLING CODE 2210-01-M

Privacy Act Systems of Records

AGENCY: Office of Independent Counsel.

ACTION: Notice of new systems of records.

SUMMARY: Pursuant to the provisions of the Privacy Act, the Office of Independent Counsel hereby gives notice of one of its systems of records.

DATE: Comments must be submitted on or before November 4, 1987.

ADDRESS: Address all comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Pamela Krems, 202-383-8989.

SUPPLEMENTARY INFORMATION: The Office of Independent Counsel operates pursuant to two distinct and separate sources of authority. On December 4, 1986, Attorney General Edwin Meese III filed an application for appointment of an Independent Counsel with the Division for the Purpose of Appointing Independent Counsels of the United States Court of Appeals for the District of Columbia Circuit. On December 19, 1986, the Special Division of the Court of Appeals filed an order appointing Lawrence E. Walsh as Independent Counsel in the Iran/Contra matter. Order Appointing Independent Counsel, *In re Oliver L. North, et al.*, Div. No. 86-6 (Dec. 19, 1986).

On March 5, 1987, Attorney General Meese issued a regulation that created an "Office of Independent Counsel: Iran/Contra" and provided that office with the same jurisdiction and powers that it already possessed under the Ethics in Government Act, 28 U.S.C. 591-598, and the December 19, 1986 court order appointing Independent Counsel Walsh. 52 FR 7270 (Mar. 10, 1987), 9241 (Mar. 23, 1987) (to be codified at 28 CFR Parts 600 and 601). The "Office of Independent Counsel" and the "Office of Independent Counsel: Iran/Contra" are in actuality one and the same office.

Pursuant to the provisions of the Privacy Act of 1974, the Office of Independent Counsel publishes a system of records entitled "Freedom of Information Act/Privacy Act Files (OIC/002)."

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, allows a waiver of its 60-day period in which to review the system. The Office of Independent Counsel has requested a waiver, asking that the system be reviewed within a 30-day period. Therefore, the Office invites the public, OMB, and the Congress to submit written comments about this system. Please submit any comments to Pamela Krems, Office of Independent Counsel, Suite 701 West, 555 Thirteenth

Street, NW., Washington, DC 20004, by December 4, 1987.

In accordance with the requirements of the Privacy Act, the Office has provided a report on this system to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: October 29, 1987.

Lawrence E. Walsh,

Independent Counsel.

OIC/003

SYSTEM NAME:

Administrative Files.

SECURITY CLASSIFICATION:

The highest classification for any record in this system is Top Secret with Sensitive Compartmented Information. Special access material is stored within the system.

SYSTEM LOCATION:

Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street, NW., Washington, DC 20004; 26 Federal Plaza, New York, New York 10278; 50 Penn Place, Oklahoma City, Oklahoma 73118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Office personnel (past and present); applicants for office positions; vendors; expert professionals whose services are used by the Office; citizens making inquiries or comments; witnesses in court proceedings.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel files (unofficial); applicant files; personnel address and telephone number lists; time and attendance records; sign in/sign out sheets; telephone records and logs; witness records; monthly financial statements; internal proposed fiscal year budget sheets; travel authorizations and vouchers; fiscal vouchers; internal meeting file; address and telephone indexes; lists of repair technicians; correspondence files; and other administrative records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 5 U.S.C. 301, 28 U.S.C. 591–598, 28 CFR 600.1.1–600.1.5, and 44 U.S.C. 3101.

PURPOSES:

This system is maintained due to the Office of Independent Counsel's investigation into possible criminal-law violations relating to the Iran/Contra matter.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: (a) In any case in which there is an indication of a violation or potential violation of law or legal obligation, criminal, civil, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law or civil remedy; (b) in the course of investigating the potential or actual violation of any law, criminal, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (c) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with the procedures governing such proceeding or hearing; (d) a record relating to a case or matter may be disseminated to a federal, state, local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (e) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (f) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (g) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (h) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (i) a record may be disseminated to a federal, state, local, foreign, or international law-enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (j) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (k) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country apprehending and/or returning a fugitive to a jurisdiction that seeks his return.

Information permitted to be released to the news media and the public may be made available from this system of records maintained by the Office unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy or would violate a security or investigatory guideline or mandate.

Information contained in systems of records maintained by the Office of Independent Counsel, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

A portion of the records from this system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information is recorded on basic paper/cardboard material, and stored within manila file folders within file cabinets, or safes. Records contained in this system are stored in an accredited SCI facility.

RETRIEVABILITY:

Information is retrieved primarily on the basis of name or subject matter. Information within this system of records may be accessed only by employees with a need to know, and, where necessary, in accordance with Executive Order 12356 and national security information procedures set forth in 28 CFR Part 17.

SAFEGUARDS:

Material in this system is stored in the Office, an accredited SCI facility. Some material in the system is located in locked file drawers and safes; other material is stored in unlocked file drawers. The Office is locked at all times and is secured by the Federal Protective Service. The records are safeguarded and protected in accordance with applicable Office rules and policies, and, where necessary, in accordance with Executive Order 12356 and national security information procedures set forth in 28 CFR Part 17.

RETENTION AND DISPOSAL:

Records are retained and will be disposed of, if at all, in accordance with established procedures depending upon the classification of the material.

SYSTEM MANAGER(S) AND ADDRESS:

The Office Administrator is the system manager. The address is: Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street NW., Washington, D.C. 20004.

NOTIFICATION PROCEDURE:

Address all inquiries to FOIA/PA Officer, Office of Independent Counsel, Suite 701 West, 555 Thirteenth Street NW., Washington, D.C. 20004.

RECORD ACCESS PROCEDURES:

Make all requests for access to records from this system in writing to the FOIA/PA Officer. Clearly mark both the letter and the envelope "Privacy Act Request." Include in the request the name of the individual involved, his birth date and place of birth, or any other identifying number or information that may be of assistance in locating the record and the name of the matter involved, if known. The requester should also include a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or to amend information contained in the system should direct their request to the FOIA/PA Officer listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are not limited to, Office personnel memoranda and reports, correspondence, vouchers, etc., as set forth above under Categories of Records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 87-25376 Filed 11-2-87; 8:45 am]
BILLING CODE 2210-01-M

DEPARTMENT OF THE INTERIOR

National Environmental Policy Act; Revised Implementing Procedures (516 DM 6, Appendix 4)

AGENCY: Department of the Interior.

ACTION: Notice of proposed revised procedures implementing The National Environmental Policy Act (NEPA) for the Bureau of Indian Affairs (BIA).

SUMMARY: This notice announces a proposed revision of Appendix 4 to the Department's NEPA procedures (516 DM 6, Appendix 4) which were published in the **Federal Register** on January 23, 1981 (46 FR 7490).

DATE: The Appendix 4 will be adopted after a 30-day comment period. Comments received during this time will be considered.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, DC 20240; Telephone (202) 343-3891, FTS 343-3891. For the Bureau of Indian Affairs, contact George Farris, Telephone (202) 343-6574, FTS 343-6574.

SUPPLEMENTARY INFORMATION: This proposed revised Appendix 4 to the Departmental Manual (516 DM 6) provides more specific NEPA complaince guidance to the BIA. In particular, it updates information about BIA organizational responsibilities for NEPA compliance, updates guidance to applicants, identifies, without change, actions normally requiring the preparation of an EIS, and updates, revises, and adds to those actions categorically excluded from the NEPA process. The additions reflect continued BIA experience with the NEPA process and are primarily in the forestry and land conveyance areas. The Appendix 4 must be used in conjunction with the Departmental procedures and the Council on Environmental Quality regulations (40 CFR Parts 1500-1508). In addition, the BIA has prepared a Handbook (30 BIAM, Supplement 1) to provide technical guidance on how to apply these procedures to its principal programs at the Area and Agency levels.

Comments are solicited and will be considered in the final version of Appendix 4.

Outline

Part 516 National Environmental Policy Act
Chapter 6 Managing the NEPA Process
Appendix 4 Bureau of Indian Affairs
4.1 NEPA Responsibility
4.2 Guidance to Applicants and Tribal Governments
4.3 Major Actions Normally Requiring an EIS
4.4 Categorical Exclusions

Date: October 30, 1987.

Bruce Blanchard,

Director, Environmental Project Review.

4.1 NEPA Responsibility

A. *Assistant Secretary—Indian Affairs* is responsible for the NEPA compliance of Bureau of Indian Affairs (BIA) activities and programs.

B. *Deputy to the Assistant Secretary—Indian Affairs (Trust and Economic Development)* is responsible for oversight of the BIA program for achieving compliance with NEPA. The Deputy determines the adequacy of all EIS's which come before the Assistant Secretary before making decisions for implementing proposed actions.

C. *The Environmental Services Staff,* (Washington), in the Office of Trust and Economic Development is the focal point for overall NEPA guidance within BIA and is responsible for advising and assisting Area Offices, Agency Superintendents, and other field support personnel in their environmental activities, providing training and acting as the Central Office's liaison with Indian tribal governments on environmental and NEPA compliance matters. Information about BIA NEPA documents or the NEPA process can be obtained by contacting the Environmental Services Staff.

D. *Other Central Office Directors and Division Chiefs* are responsible for

ensuring that the programs and activities within their jurisdiction comply with NEPA.

E. *Area Directors and Project Officers* are responsible for conducting all activities under their jurisdiction in compliance with NEPA and providing advice and assistance to Agency Superintendents and the Indian tribes on environmental matters related to NEPA; and assigning sufficient trained staff to ensure that these responsibilities are carried out.

F. *Agency Superintendents and Field Unit Supervisors* are responsible, as directed and delegated by the Area Directors, for implementation and enforcement of the BIA environmental policy at the Agency or field unit level, including field inspection and preparation of environmental documents. These documents shall be reviewed for procedural adequacy by the Environmental Coordinator of the Area Office before release to the public.

4.2 Guidance to Applicants and Tribal Governments

A. *Relationship with Applicants and Tribal Governments.*

1. *Guidance to Applicants.* a. An "applicant" is any entity which proposes to undertake any activity which will at some point require BIA action. These may include tribal governments, private entities, state and local governments or other Federal agencies. BIA compliance with NEPA is a Federal responsibility. Compliance is triggered when there will be a BIA decision required to implement an action.

b. Applicants should contact the BIA official at the appropriate level for assistance. This will be the Agency Superintendent, Area Director or Deputy to the Assistant Secretary—Indian Affairs (Trust and Economic Development), in the Central Office.

c. If the applicant's proposed action will affect responsibilities of more than one tribal government, one government agency, one BIA Agency, or where the action may be of State-wide or regional significance, the applicant may contact the respective Area Director(s). The Area Director, in his sole discretion, may assign the environmental responsibilities to one Agency Superintendent to act as the lead office for the proposal. From that point, the Applicant will deal with the designated lead office.

d. Since much of the applicant's planning may take place outside the BIA planning system, it is the applicant's responsibility to prepare a milestone chart for BIA use at the earliest possible stage in order to coordinate the efforts of both parties. Early communication with the BIA responsible office will expedite determination of such matters as the scope, depth and sources of data for an environmental document.

2. *Guidance to Tribal Government.* a. Tribal governments may be applicants, and/or be affected by a proposed action of BIA or another Federal agency. Tribal governments affected by a proposed action shall be consulted during the preparation of environmental documents and, at their option, may cooperate in the review or preparation of such documents. Notwithstanding the above, the BIA retains sole responsibility and discretion in all NEPA compliance matters.

b. Proposed Tribal actions that do not require BIA or other Federal approval or funding are *not* subject to the NEPA process.

B. *Prepared Program Guidance.* BIA has implemented regulations for environmental guidance for surface mining in 25 CFR Part 216 (Surface Exploration, Mining and Reclamation of Lands.) Environmental guidance for Forestry activities is found in 25 CFR 163.27 and 53 BIAM Supplement 2 and Supplement 3.

C. *Other Guidance.* Programs under 25 CFR for which BIA has not yet issued regulations or directives for environmental information for applicants are listed below. These programs may or may not require environmental documents and could involve submission of applicant information to determine NEPA applicability. Applicants for these types of programs should contact the nearest affected BIA office for information and assistance:

1. Loans to Indians from the Revolving Loan Fund (25 CFR Part 101).
2. Loan guaranty, insurance, and interest subsidy (25 CFR Part 103).
3. Leasing and permitting (Lands) (25 CFR Part 162).
4. Sale of lumber and other forest products produced by Indian enterprises from the forests on Indian reservation (25 CFR Part 164).
5. Sale of forest products, Red Lake Indian Reservation, Minn. (25 CFR Part 165).
6. General grazing regulations (25 CFR Part 166).
7. Navajo grazing regulations (25 CFR Part 167).
8. Grazing regulations for the Hopi partitioned lands area (25 CFR Part 168).
9. Rights-of-way over Indian lands (25 CFR Part 169).
10. Roads of the Bureau of Indian Affairs (25 CFR Part 170).
11. Concessions, permits and leases on lands withdrawn or acquired in connection with Indian irrigation projects (25 CFR Part 173).
12. Colorado River Irrigation Project, Arizona (25 CFR Part 175).
13. Flathead Indian Irrigation Project, Montana (25 CFR Part 176).
14. Leasing of tribal lands for mining (25 CFR Part 211).
15. Leasing of allotted lands for mining (25 CFR Part 212).
16. Leasing of restricted lands of members of Five Civilized Tribes, Oklahoma, for mining (25 CFR Part 213).
17. Leasing of Osage Reservation lands, Oklahoma, for mining, except oil and gas (25 CFR Part 214).
18. Lead and zinc mining operations and leases, Quapaw Agency (25 CFR Part 215).
19. Leasing of Osage Reservation lands for oil and gas mining (25 CFR Part 226).
20. Leasing of certain lands in Wind River Indian reservation, Wyoming, for oil and gas mining (25 CFR Part 227).
21. Off-reservation treaty fishing (25 CFR Part 249).
22. Preservation of antiquities (25 CFR Part 261).
23. Contracts under Indian Self-Determination Act (25 CFR Part 271).
24. Grants under Indian Self-Determination Act (25 CFR Part 272).
25. School construction contracts or services for tribally operated previously private schools (25 CFR Part 274).
26. School construction contracts for public schools (25 CFR Part 277).
27. Indian Business Development Program (25 CFR Part 286).

4.3 Major Actions Normally Requiring An EIS

A. The following BIA actions normally require the preparation of an Environmental Impact Statement (EIS):

1. Proposed mining contracts (for other than oil and gas), or the combination of a number of smaller contracts comprising a mining unit for:

a. New mines of 640 acres or more, other than surface coal mines.

b. New surface coal mines of 1,280 acres or more, or having an annual full production level of 5 million tons or more.

2. Proposed water development projects which would, for example, inundate more than 1,000 acres, or store more than 30,000 acre-feet, or irrigate more than 5,000 acres of undeveloped land.

B. If, for any of these actions, it is proposed not to prepare an EIS, an Environmental Assessment (EA) will be prepared and handled in accordance with § 1501.4(e)(2).

4.4 Categorical Exclusions

In addition to the actions listed in the Department's categorical exclusions in Appendix 1 of 516 DM 2, many of which the BIA also performs, the following BIA actions are hereby designated as categorical exclusions unless the action qualifies as an exception under Appendix 2 of 516 DM 2:

A. *Operation, maintenance, and replacement of existing facilities.* Examples are normal renovation of buildings, road repairs and limited rehabilitation of irrigation structures.

B. *Transfer of Existing Federal Facilities to Other Entities.* Transfer of existing operation and maintenance activities of Federal facilities to tribal groups, water user organizations, or other entities where the anticipated operation and maintenance activities are agreed to in a contract, follow BIA policy, and no change in operations or maintenance is anticipated.

C. *Human resources programs having primarily socio-economic effects.* Examples are social services, education services, employment assistance, tribal operations, law enforcement and credit and financing activities.

D. *Administrative actions and other activities relating to trust resources.* Examples are: Management of trust funds, issuance of such documents as certificates of competency, allotments and fee patents; renewal of agricultural and other leases when environmental impacts are addressed in an earlier environmental document.

E. *Self-Determination Act Grants and Contracts.* 1. Self-Determination Act Grants.

2. Self-Determination Act contracts for BIA programs which are listed as categorical exclusions, or for programs in which environmental impacts are adequately addressed in an earlier environmental document.

F. *Rights-of-Way.* 1. Rights-of-way inside another right-of-way, or amendments to right-of-way where minor deviations from or additions to the original right-of-way are involved and where there is an existing environmental document covering the same or similar impacts in the right-of-way area.

2. Service line agreement for a single-poled power or telephone line to an individual residence, building or well from an existing line where installation will involve no clearance of vegetation from the right-of-way other than for placement of poles.

G. *Minerals.* Approval of permits for geologic mapping, inventory, reconnaissance and surface collecting.

2. Approval of unitization agreements, pooling or communitization agreements.

3. Approval of mineral lease adjustments and transfers, including assignments and subleases.

H. *Forestry.* 1. Approval of free-use cutting, without permit, to Indian owners for on-reservation personal use of forest products, not to exceed 2,500 feet board measure.

2. Approval and issuance of free-use cutting permits for forest products not to exceed $2,500 in value.

3. Approval and issuance of paid timber cutting permits for products valued at less than $10,000 when in compliance with policies and guidelines established by a current management plan covered by an environmental document.

4. Approval of annual logging plans when in compliance with policies and guidelines established by a current management plan covered by an environmental document.

5. Approval of *Normal Fire Year Plans* and/or *Mobilization Plans* detailing emergency fire suppression activities.

6. Approval of emergency forest and range rehabilitation plans when limited to environmental stabilization on less than 10,000 acres.

7. Approval of timber stand improvement projects of less than 200 acres when in compliance with policies and guidelines established by a current management plan covered by an environmental document.

8. Approval of timber management access skid trail and logging road construction when consistent with policies and guidelines established by a current management plan covered by an environmental document.

9. Approval of prescribed burning plans of less than 200 acres when in compliance with policies and guidelines established by a current management plan covered by an environmental document.

10. Approval of tree planting projects and associated protection and site preparation activities on less than 200 acres when consistent with policies and guidelines established by a current management plan covered by an environmental document.

I. *Land and Facility Conveyance.* 1. Land transfers from Federal or State Agencies or other DOI Bureaus to the BIA as land to be held in trust for the Indian tribe(s) involving no development, physical alteration, or change in land use.

2. Purchase, sale, abandonment or exchange of tracts of land, mineral rights or other interests in land in which no change in land use or operation is planned.

3. Lands acquired pursuant to 25 CFR Part 465, 35 U.S.C. 501, and 25 U.S.C. 2202 where no development, physical alteration, or change of land use after acquisition is known or planned.

J. *Other.* 1. Data gathering activities such as inventories, soil and range surveys, timber cruising, geological, archeological, paleontological and cadastral surveys.

2. Establishment of non-distrubance environmental quality monitoring programs and field monitoring stations including testing services.

3. Actions where BIA has concurrence or co-approval with another Bureau and the action is categorically excluded for that Bureau.

4. Approval of an Application for Permit to Drill for a new water source or observation well.

5. Approval of conversion of an abandoned oil well to a water well if water facilities are established only near the well site.

[FR Doc. 87-25534 Filed 11-3-87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Indian Affairs

Pueblos in New Mexico; Transfer of Indian Owned Land

October 23, 1987.

This notice is published to comply with the Act of February 17, 1978, (Public Law 95-232, 92 Stat. 30). The Act authorized duly authorized officials of each of the Indian Pueblos of New Mexico to convey to the United States of America all right, title, and interest of such Pueblos in certain land located in the City of Albuquerque, County of Bernalillo, State of New Mexico. This land had been conveyed to the New Mexico Pueblos by a quitclaim deed executed on June 17, 1969, by the Acting Commissioner of Indian Affairs, on behalf of the United States and the Secretary of the Interior, and by a correction quitclaim deed executed on July 30, 1970, by the Commissioner of Indian Affairs, in the same capacity.

By deed, approved on May 27, 1987, title to the following described tract of land, containing 11.2857 acres, has been accepted on behalf of the United States in trust jointly for the Pueblo of Acoma, Pueblo of Cochiti, Pueblo of Isleta, Pueblo of Jemez, Pueblo of Laguna, Pueblo of Nambe, Pueblo of Picuris, Pueblo of San Ildefonso, Pueblo of San Juan, Pueblo of Santa Ana, Pueblo of Santa Clara, Pueblo of Santo Domingo, Pueblo of Taos, Pueblo of Tesuque, Pueblo of Zia and Pueblo of Zuni:

A tract of land lying and being situated in section 7, Township 10 North, Range 3 East of the New Mexico principal meridian, within the City of Albuquerque, County of Bernalillo, State of New Mexico and west of and adjacent to Twelfth Street NW., between Indian School Road NW. and Menaul Boulevard NW., said tract being more particularly described as follows:

Tract "C"

A tract of land lying and being situated in section 7, township 10 north, range 3 east of the New Mexico principal meridian, within the City of Albuquerque, County of Bernalillo, State of New Mexico, said tract being more particularly described as follows:

Beginning at a point on the west right-of-way line for 12th Street and the north right-of-way line for Indian School Road, said point also being corner No. 2 of tract herein described and from whence the New Mexico Highway Department Triangulation Station I-40-15 having established coordinates of Y-1494103.76, X-378204.72 of the New Mexico coordinate system, central zone, bears south 16 degrees 02 minutes 03 seconds east, 989.43 feet. feet.

Thence north 59 degrees 58 minutes 22 seconds west, 281.29 feet along the north right-of-way of Indian School Road to the point of curvature and corner No. 3 of said tract.

Thence in a northwesterly direction 212.69 feet along the right-of-way curve concave to the northeast having a radius of 1,393.27 feet to corner No. 4.

Thence north 8 degrees 49 minutes 05 seconds east, 865.60 feet to corner No. 5, a point on the south right-of-way line of Menaul Boulevard extension.

Thence in a northeasterly direction 493.42 feet along the right-of-way curve concave to the south having a radius of 716.20 feet to corner No. 1, a point on the west right-of-way line for 12th Street.

Thence south 8 degrees 16 minutes west, 1,255.45 feet along said right-of-way to corner No. 2, the point and place of beginning, said tract containing 11.2857 acres, more or less.

This land shall enjoy the tax-exempt status of other trust lands, including exemption from State taxation and regulation. However, such property shall not be "Indian Country" as defined in section 1151 of Title 18, United States Code. Appropriate notation will be made in the land records of the Bureau of Indian Affairs.

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

[FR Doc. 87-25490 Filed 11-3-87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AZ-940-08-4212-11; A-20663]

Order Providing for Opening of Public Land; Arizona

October 26, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: Recreation and Public Purposes application A-20633 for lease or patent has been withdrawn and the classification is no longer required. The classification is terminated.

FOR FURTHER INFORMATION CONTACT: Lisa Schaalman, Arizona, State Office, (602) 241-5534.

SUPPLEMENTARY INFORMATION: On March 6, 1986 the following described land was classified suitable for lease or patent under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 to 869-3):

Gila Salt River Meridian, Arizona

T. 14 N., R. 1 W.,
Sec. 31, lots 17, 18, 21, 22 and lots 24, 25, 26 (formerly lots 19 and 20).

A notice of realty action published in the **Federal Register** on March 27, 1987, Vol. 52, Page 9952, determined lot 24 suitable for disposal by public sale under Serial No. A-21343. The lot will continue to be segregated from appropriation under the public land laws, including the mining laws, in accordance with provisions of the March 27, 1987 publication.

The remaining land will be open to the operation of the public land laws, including the mining laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws on December 4, 1987.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-25501 Filed 11-3-87; 8:45 am]

BILLING CODE 4310-32-M

[AZ-940-08-4212-12; A-19123]

Opening of Public Lands; Arizona

October 26, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Reconveyed mineral estate opened to entry in Mohave County, Arizona.

SUMMARY: This action will open 480 acres of reconveyed land in Mohave County to the mining and mineral leasing laws.

EFFECTIVE DATE: 9:00 a.m., December 4, 1987.

FOR FURTHER INFORMATION CONTACT: Anglea Mogel, Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011, (602) 241-5534.

SUPPLEMENTARY INFORMATION: Pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716), the United States acquired the following described mineral estate from the State of Arizona:

Gila and Salt River Meridian, Arizona

T. 16 N., R. 15 W.,
Sec. 28, NW¼, S½.

The area described comprises 480 acres in Mohave County.

At 9:00 a.m. on December 4, 1987 the reconveyed mineral estate described above will be open to applications and offers under the mineral leasing laws, subject to existing State issued leases and permits. All applications and offers received prior to the effective date, will be considered as simultaneously filed as of that time and date, and a drawing will be held in accordance with 43 CFR 1821.2-3, if necessary. Applications and offers received thereafter shall be considered in the order of filing.

At 9:00 a.m. on December 4, 1987 the reconveyed mineral estate described above will be open to location and entry under the United States mining laws. Appropriation under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to established a location and to initiate a right of possession are governed by State law where not in conflict with Federal laws. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-25502 Filed 11-3-87; 8:45 am]

BILLING CODE 4310-32-M

Minerals Mangagment Service

Development Operations Coordination Document; Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0780, Block 33, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 27, 1987. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: 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). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

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: October 28, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-25500 Filed 11-3-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 24, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by November 19, 1987.

Carol D. Shull,

Chief of Registration, National Register.

CONNECTICUT

Hartford County

Southington, *Frost, Levi B., House*, 1089 Marion Ave.

New London County

New London, *Williams Memorial Park Historic District*, Roughly bounded by Hempstead & Broad Sts., Williams Memorial Pkwy., & Mercer

FLORIDA

Leon County

Tallahassee, *Woman's Club of Tallahassee*, 1513 Cristobal Dr.

GEORGIA

Bartow County

Adairsville, *Adairsville Historic District*, Roughly Main St. bounded by King & Elm Sts., & city Limits on S & W

ILLINOIS

Champaign County

Mahomet, *Mahomet Graded School*, Main St.

Dupage County

Lombard, *Dupage Theatre and Dupage Shoppes*, 101-109 S. Main St.

Hancock County

Nauvoo, *Reimbold, William J., House*, 950 White St.

LaSalle County

Utica, *Spring Valley House-Sulphur Springs Hotel*, Dee Bennett Rd.

Lee County

Dixon, *Illinois Central Stone Arch Railroad Bridges*, W. First, W. Second, & W. Third Sts. between Monroe & College Aves.

Madison County

Bethalto, Bethalto Village Hall, 124 Main St.

Winnebago County

Rockford, *Haight Village Historic District*, Roughly bounded by Walnut & Kishwaukee Sts., Chicago Northwestern RR tracks, & Madison St.

Woodford County

Benson, *Benson Water Tower*, Clayton St. between Front & Pleasant Sts.

IOWA

Marion County

Pella *Van Asch, William, House—Huibert Debooy Commercial Room*, 1105, 1107, & 1109 W. Washington St.

LOUISIANA

Rapides Parish

Alexandria, *Masonic Home for Children*, 5800 Masonic Dr.

MARYLAND

Baltimore (Independent City)

Business and Government Historic District, Roughly bounded by Saratoga St., City Blvd., Water, Lombard, & Charles St.

NEW YORK

Livingston County

Lima, *Lima Village Historic District*, 1881-1885, 1818-1870 Rochester St., Lima Presbyterian Church, 7304-7312 & 7303-7315 E. Main St.

NORTH CAROLINA

Chatham County

Bonlee, *Mount Vernon Springs Historic District*, SR 1134 & SR 1135

SOUTH CAROLINA

Greenwood County

Greenwood vicinity, *Self, James C., House*, 595 N. Mathis St.

Oconee County

Long Creek vicinity, *Long Creek Academy*, CR 14

Pickens County

Easley vicinity, *Sheriff Mill Complex*, SR 40

UTAH

Juab County

Nephi, *Juab County Jail*, 45 W. Center

Kane County

Mt. Carmel, *Mt. Carmel School and Church*, Off UT 89

Sanpete County

Ephraim, *Snow Academy Building*, 150 College Ave.

Weber County

Ogden, *Mountain View Auto Court*, 563 W. Twenty-fourth St.

WYOMING

Fremont County

Fort Washakie, *Fort Washakie Historic District*, US 287

[FR Doc. 87-25519 Filed 11-3-87; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-19, 791]

RCA Cathode Ray Tube Manufacturing Operation, Lancaster, PA; Negative Determination Regarding Application for Reconsideration

By an application dated August 13, 1987, with an additional time granted by the Department to submit substantial evidence, the International Brotherhood of Electrical Workers (IBEW) and the International Association of Machinists (IAM) with the support of the company requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance for workers at RCA, Lancaster, Pennsylvania. The denial notice was signed on August 5, 1987 and published in the **Federal Register** on August 25, 1987 (52 FR 32072).

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Petitioners claim that a substantial amount of Lancaster's production was transferred to a corporate plant in Juncos, Puerto Rico whose workers were under certification for adjustment assistance.

Investigation findings show that a major portion of the cathode ray tube parts and materials produced at Lancaster are sold to RCA's offshore foreign affiliates. The Department's denial notice stated that lost export sales cannot be considered in determining import impact under the terms of the Trade Act of 1974. Sales to the export market would not form a basis for certification.

The remaining production was transferred to RCA picture tube plants in Marion, Indiana and Scranton, Pennsylvania or to the electron mount plant in Juncos, Puerto Rico. Workers at the RCA tube plants in Marion, Indiana and Scranton, Pennsylvania are currently not certified for adjustment assistance. Workers at RCA Borinquen, Inc., Juncos, Puerto Rico were certified for adjustment assistance on February 3, 1986 and that plant closed on June 27, 1986, TA-W-16,370.

Investigation findings show that although a substantial amount of Lancaster's production was integrated with that at Juncos in 1983 and 1984, only a very small percent was integrated during the period applicable to the petition. Investigation finds also showed that the CRT parts work which accounted for a major share of Lancaster's 1986 and 1987 sales was sold by GE in September, 1987 to a domestic firm in Kentucky. The sale of Lancaster's CRT parts work is so dominant a cause that it precludes other causes from contributing importantly since worker separations would have occurred irrespective of imports.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 27th Day of October, 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-25545 Filed 11-3-87; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-87-217C]

Clinchfield Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Clinchfield Coal Company, P.O. Box 4000, Lebanon, Virginia 24266 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Triple C No. 1 Mine (I.D. No. 44-06375) located in Dickenson County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the Upper Banner coalbed and ranges from 24 to 60 inches in height, with consistent undulations and very uneven haulage roadways.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety to the miners affected because the cabs or canopies would dislodge roof support, decrease the equipment operator's visibility, and create discomfort to the operator.

4. For these reasons, petitioner requests a modification of the standard in mining heights of 48 inches or less.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 28, 1987.

[FR Doc. 87-25546 Filed 11-3-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-227-C]

Double L. Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Double L. Coal Corporation, P.O. Box 46, Big Rock, Virginia 24603 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 1 Mine (I.D. No. 44-00403) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that due to rock falls, and poor roof conditions certain areas of the mine are unsafe to travel.

3. As an alternate method, petitioner proposes to establish two monitoring stations where the quality and quantity of air can be monitored. These examinations will be performed by a certified person on a weekly basis, and a log will be kept at each station.

4. In support of this request, petitioner states that the mine is located above drainage and methane has never been detected.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 28, 1987.

[FR Doc. 87-25547 Filed 11-3-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-228-C]

Island Creek Corp.; Petition for Modification of Application of Mandatory Safety Standard

Island Creek Corporation, 2355 Harrodsburg Road, P.O. Box 11430, Lexington, Kentucky 40575 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Virginia Pocahontas No. 3 Mine (I.D. No. 44-01520) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that due to the roof deteriorating certain areas of the mine are unsafe to travel.

3. As an alternate method, petitioner proposes to establish an evaluation point where air quality, and quantity readings will be taken by a certified person on a daily basis. Roof conditions, the air flow patterns, and the quality of such air into and from the adjacent gob area will also be checked.

4. In support of this request petitioner states that—

(a) Methane or other harmful, noxious, or poisonous gases will not be permitted to accumulate in the airways in excess of legal limits. An increase of 0.5 percent methane above the last previous methane reading will cause an immediate investigation of the affected airways. If at any time the air quantity at any of the measuring stations indicates a reduction in air of 10 percent, an immediate investigation of the affected area will be conducted;

(b) A diagram showing the normal direction of the air current flow will be posted at the evaluation point, at the first-aid station and will be maintained in a legible condition. Any change in the flow of the air current will be reported to the mine foreman immediately;

(c) The evaluation point will be shown on the mine ventilation system and methane and dust control map and will be part of the approved ventilation plan for the mine;

(d) All persons who work in the area will be instructed in emergency evacuation procedures and any other personnel assigned to work in the area will also be trained; and

(e) Four self-contained self-rescuers will be provided near the head, middle, and tail of the longwall face.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 28, 1987.

[FR Doc. 87-25548 Filed 11-3-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-219-C]

Mettiki Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Mettiki Coal Corporation, Route Three, Box 124A, Deer Park, Maryland 21550 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mettiki Mine (I.D. No. 18-00621) located in Garrett County, Maryland. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that due to ground control pressures that have developed, numerous roof falls, floor heave, and loose and broken top the entry is unsafe to travel in certain areas.

3. As an alternate method, petitioner proposes to establish checkpoints where air quality, and quantity can be monitored.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 28, 1987.

[FR Doc. 87-25599 Filed 11-3-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-226-C]

Old Ben Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Old Ben Coal Company, 200 Public Square, Cleveland, Ohio 44114-2375 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley

wires, trolley feeder wires, high-voltage cables and transformers) to its Mine No. 25 (I.D. No. 11-02392) located in Franklin County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables, and transformers not be located inby the last open crosscut and be kept at least 150 feet from pillar workings.

2. The longwall mining equipment presently in use at the No. 25 Mine is powered by 950-volt, a.c. electricity to face electrics controller, the stage loader, panline, and shearer. This equipment is subject to unacceptable voltage drops across the system which causes a decrease in the working torques of the drive motors, and leads to excessive strain on equipment and high current loads in the electric circuitry. The circuit breakers and cables are presently at the practical limits of safe and efficient operation. In order to maintain compliance with overcurrent protection using the 950-volt system, it is necessary to split the loads and increase the number of cables. This doubles the amount of cable handling and electrical connections that has to be done.

3. As an alternate method, petitioner proposes to use 2400-volt A.C. high voltage cables to supply power to longwall mining equipment inby the last open crosscut and within 150 feet of gob areas, with specific conditions as outlined in the petition.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-25550 Filed 11-3-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-218-C]

Ratliff Elkhorn Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Ratliff Elkhorn Coal Company, Inc., P.O. Box 98, Rockhouse, Kentucky 41561 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 110 Mine (I.D. No. 15-16121) located in Pike Country, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the No. 1 Elkhorn seam and ranges from 40 to 50 inches in height. The bottom is soft shale and varies from flat and dry to wet and uneven.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety to the miners affected because due to uneven roof and soft bottom the cabs or canopies would dislodge roof support and electrical cables. The cabs or canopies would limit the equipment operator's vision and would also limit the operator's seating position, causing fatigue and creating potential for an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvery,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 28, 1987.

[FR Doc. 87-25551 Filed 11-3-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-224-C]

Webster County Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Webster County Coal Corporation, Route 3, P.O. Box 128, Clay, Kentucky 42404 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Dotiki Mine (I.D. No. 15-02132) located in Webster County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that barriers be established and maintained around oil and gas wells penetrating coal beds.

2. As an alternate method, petitioner proposes to clean out and plug oil and gas wells using specific techniques and specific procedures as outlined in the petition.

3. In addition, petitioner proposes to mine through the plugged oil or gas well. Prior to mining through, the petitioner would confer with the MSHA District Manager for approval of the specific mining procedures, and appropriate officials would be allowed to observe the process and all mining would be under the direct supervision of a certified official. In addition:

(a) Drivage sites would be installed; firefighting equipment, roof support and ventilation materials would be available;

(b) The quantity of air would be not less than 9000 cubic feet perminute to ventilate the face;

(c) Equipment would be checked for permissibility and serviced prior to mining through the well. The working place would be free from accumulations of debris and rock-dusted to within 20 feet of the face;

(d) Methane monitors would be calibrated prior to the shift and tests would be made during mining approximately every 10 minutes; and

(e) When the wellbore is intersected, all equipment would be deenergized and safety checks would be made before mining would continue inby the well a sufficient distance to permit adequate ventilation around the area of the wellbore.

(4) Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1987. Copies of the petition

are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: October 28, 1987.

[FR Doc. 87-25552 Filed 11-3-87; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefit Administration

Advisory Council on Employee Welfare and Pension Benefit Plans; Change of Meeting Time for ERISA Advisory Council

The starting time of a meeting of the ERISA Advisory Council on Employee Welfare and Pension Benefit Plans, which is to be held on Thursday, November 12, 1987 and as announced in the **Federal Register**/Vol. 52, No. 194/ Wednesday, October 7, 1987/Notices/ Page 37542 has been changed. The new starting time is now 1:00 p.m. All else remains the same.

Signed at Washington, DC, this 29th day of October, 1987.

David M. Walker,

Assistant Secretary, Pension and Welfare Benefit Programs.

[FR Doc. 87-25469 Filed 11-3-87; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

Bi-weekly 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 bi-weekly 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 bi-weekly notice includes all notices of amendments issued, or proposed to be issued from October 9, 1987 through October 23, 1987. The last bi-weekly notice was published on October 21, 1987 (52 FR 39296).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO FACILITY OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 4, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no

significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: November 19, 1985 as supplemented by letters dated December 5, 1986, February 18, 1987 and July 24, 1987.

Description of amendment request: By letter dated November 19, 1985 the licensee submitted a request to revise Section 4.3.C.2 of the Technical Specifications (TS) by reducing the frequency and the number of control rods tested in a given cycle. This change would reduce the control rod system wear but still preserve a high probability of detecting a defective control rod and would bring the Pilgrim TS into reasonable conformance with the Standard TS. This request was noticed on February 26, 1986 (51 FR 6820).

By letter dated December 5, 1986, the licensee requested an additional change to add a new section 3.3.A.2.f to the Limiting Conditions of Operation of the TS which states:

If plant operation is continued with three (3) or more control rods with maximum scram insertion times in excess of 7.0 seconds, perform the surveillance requirement of Section 4.3.C.2 at least once per 60 days.

By letter dated February 18, 1987 the licensee responded to the staff's request for additional information to demonstrate that the proposed amendments to Section 4.3.C.2 and 3.3.A.2 do not degrade safety. The licensee provided results of their review, indicating that no significant deterioration of scram speeds has occurred during any operating cycle. This letter provided staff requested information, only, and did not change the nature of the previous two submittals.

By letter dated July 24, 1987, the licensee proposed a final change to the TS Section 4.3.C.1. The change added a new requirement that each operable control rod be subjected to a scram time test after a reactor shutdown greater than 120 days.

Basis for proposed no significant hazards consideration determination: The licensee proposes that the subsequent applications are bounded by the no significant hazards considerations contained in their initial application letter dated November 19, 1985.

The Commission has provided guidance in the form of examples of amendments that are not considered to involve significant hazards considerations (51 FR 7751). An example of action likely to involve no significant hazards consideration is:

(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement.

The licensee's supplemental applications dated December 5, 1986 and July 24, 1987 imposed additional limitations and are identical to Example ii. Therefore, the staff proposes to make a determination that the amendment, as supplemented, involves a no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: Carl Stahle, Acting Director

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois; and Docket No. STN 50-456, Braidwood Station, Unit No. 1, Will County, Illinois

Date of application for amendments: September 29, 1987

Description of amendments request: The amendment would revise the Technical Specifications to extend the allowable outage time for the following systems and subsystems to 7 days from 72 hours: emergency core cooling system subsystems, containment spray system, spray additive system, containment cooling system and component cooling water system. It is the staff's intention to apply this amendment, if it is found acceptable, to Braidwood Station, Unit 2, when it receives its operating license.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and has determined that it involves no significant hazards considerations. According to 10 CFR

50.92(c), a proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the 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.

This proposed amendment extends the allowable outage time from 3 days to 7 days for the emergency core cooling subsystems, containment spray system, spray additive system, containment cooling system, and component cooling water system. The allowable outage time for these systems has no affect on the probability of previously evaluated accidents because these systems are not involved in initiating previously evaluated accidents.

A probabilistic risk assessment was performed to evaluate the change in risk to the public with the increased allowable outage time. The results of this study show a statistically insignificant increase in the relative risk of operation of Byron Station due to the projected increase in the outage times. The conclusions of this study also apply to the Braidwood Station. Brookhaven National Laboratory reviewed this report and independently estimated the changes in risk resulting from the allowable outage time extensions.

Brookhaven National Laboratory concluded that the increase in core melt frequency when increasing the allowable outage time from 72 hours to 7 days is negligible for the systems involved with this amendment request. Accordingly, this proposed amendment does not involve a significant increase in the consequences of previously evaluated accidents.

This proposed amendment only affects the allowable outage time for certain systems. It does not allow any new modes of operation beyond those normally performed at operating PWR's. Additionally, this amendment does not allow any modifications to the plant. For these reasons, this proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Previously evaluated accidents demonstrate margins of safety. These accident analyses are based on the availability of a minimum set of safety equipment and do not take into account allowable outage times for equipment. Therefore, there is no margin of safety associated with allowable outage times.

For the reasons stated above, Commonwealth Edison believes this proposed amendment involves no significant hazards consideration.

Local Public Document Room location: For Byron Station the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101; for Braidwood Station the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael Miller, Isham, Lincoln and Beale, One First National Plaza, 42nd Floor, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois; and Docket No. STN 50-456, Braidwood Station, Unit No. 1, Will County, Illinois

Date of application for amendments: September 30, 1987

Description of amendments request: The amendment would revise Technical Specifications to activate the anticipatory reactor trip on turbine trip at the P-8 setpoint (30% power) rather than at the P-7 setpoint (10% power). It is the staff's intention to apply this amendment, if it is found acceptable, to Braidwood Station, Unit 2 when it receives its operating license.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and has determined that it involves no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the 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.

This amendment involves a modification to revise the setpoint at which the anticipatory reactor trip following turbine trip is enabled. A change in a setpoint to enable an anticipatory reactor trip, which has not been taken credit for in any accident analysis, does not affect the probability or consequences of previously evaluated accidents.

This amendment will have the effect that turbine trips below 30% power will no longer result in an anticipatory reactor trip. A turbine trip from 100% power without an anticipatory reactor trip has already been analyzed. This is the same event initiated from a more severe condition. As a result, operation of the plant in accordance with this amendment will not create the possibility of a new or different kind of accident.

As previously demonstrated in the accident analysis for a turbine trip from 100% power, margins of safety are provided by the functioning of the reactor protection system, pressurizer safety valves and steam generator safety valves. This modification does not affect those features. Therefore, this modification results in no reduction in a margin of safety.

Therefore, based upon the previous analysis, the staff concludes that the proposed amendment to the Technical Specifications does not involve significant hazards considerations.

Local Public Document Room location: For Byron Station the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101; for Braidwood Station the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael Miller, Isham, Lincoln and Beale, One First National Plaza, 42nd Floor, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Unit Nos. 1 and 2, Rock Island County, Illinois

Date of amendment request: October 20, 1987

Description of amendment request: Commonwealth Edison Company (CECo, the licensee) proposes to amend the drywell pressure post-accident monitoring instrumentation requirements contained in Table 3.2-4 of Appendix A, Technical Specifications (TS) to Facility Operating Licenses DPR-29 and 30.

In order to comply with an NRC Regulatory Guide (RG) 1.97 commitment for drywell pressure recorders, CECo has replaced the associated scales and recalibrated corresponding instruments. There were no hardware modifications involved.

Current TS specify the drywell pressure recorder scale as "from 0 to 75 psig." However, the modified scale indicates from "-10 inches Hg to 70 psig" to provide negative drywell pressure indication. This expanded drywell pressure scale meets the licensee's commitment to RG 1.97. As such, TS

Table 3.2-4 would be revised to reflect the modified pressure range.

An additional TS change is being made for Quad Cities Unit 2, DPR-30, which corrects a typographical error on Table 3.2-4 where reference is erroneously made to Unit 1 instrumentation rather than Unit 2.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Pursuant to 10 CFR 50.91(a), the licensee provided the following analysis of their amendment request which addresses those three standards.

CECo has evaluated the proposed amendment in accordance with the criteria of 10 CFR 50.92(c) and determined it does not involve significant hazards consideration. Consequently, the licensee maintains that operation of Quad Cities Nuclear Power Station in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because only the drywell pressure recorder scale has been changed, no hardware modifications were made. In fact, instrumentation readings have been expanded to provide the operator with indication of drywell pressure in the negative range.

For drywell pressure exceeding 70 psig, there are additional indicators on the control room front panel which track pressure up to 250 psig. This equipment modification and associated amendment change will improve the range of drywell pressure for post-accident monitoring without adversely impacting any plant systems.

(2) Create the possibility of a new or different kind of accident from any previously evaluated because expanding the drywell pressure instrumentation scale will improve post-accident monitoring capability. Since no hardware modification was accomplished, system function, design, and operation remains the same.

(3) Involve a significant reduction in the margin of safety because modifying the drywell pressure recorder will benefit the operator by allowing an immediate visual trending of this parameter on the front panel, using an expanded range of indication. This modification and related amendment are necessary to meet RG 1.97 post-accident monitoring requirements. Instrument design and function have not been affected.

The NRC staff has reviewed the licensee's amendment request and concurs with the significant hazards consideration analysis detailed above. Furthermore, correcting typographical errors in the TS is considered an administrative change. The Commission's guidance (51 FR 7751) clearly establishes that a purely administrative change to technical specifications "is an example of an amendment not likely to involve significant hazards considerations." Therefore, the NRC staff proposes to determine that this application for amendment does not involve a significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Mr. Michael I. Miller; Isham, Lincoln, & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: Daniel R. Muller

Connecticut Yankee Atomic Power Company Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: September 9, 1987

Description of amendment request: The proposed license amendment would revise 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).

Basis for proposed no significant hazards consideration determination: In accordance with 10 CFR 50.92, the licensee has reviewed the proposed license amendment and has concluded that it does not involve a significant hazards consideration. The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not compromised; a conclusion which is supported by the licensee's determinations provided below.

The proposed amendment does not involve a significant hazards consideration because the proposed change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously analyzed. There are no physical changes to the plant as a result of the proposed change; therefore, previously analyzed accidents are not affected.

(2) Create the possibility of a new or different kind of accident from any previously analyzed. The technical specification change deletes the general statements about containment penetrations from Section 5.4.B. The design of containment penetrations is discussed in the UFSAR. As such, there are no hardware modifications associated with this change and, consequently, no failure modes associated with this change.

(3) Involve a significant reduction in the margin of safety. The proposed change will have no affect on the ongoing surveillance requirements or limiting conditions for operation.

The staff has reviewed the licensee's determination that the proposed amendment involves no significant hazards consideration and agrees with the licensee's analyses. Accordingly, the staff proposes to determine that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room location: Russell 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: Cecil O. Thomas.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: October 14, 1987

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 3.6.19 "Containment Purge Systems" to increase the limit placed on the amount of time the 4-inch Containment Air Release and Addition (VQ) System valves may be open from 2000 hours per calendar year to 3000 hours. TS Bases 3/4.6.1.9 state that the total time this system may be open is a function of "...anticipated need and operating experience. Only safety-related reasons; e.g., containment pressure control or the reduction of airborne radioactivity to facilitate access for surveillance and maintenance activities may be used to support the addi tional time requests."

The licensee stated that the experience at Catawba Unit 1 indicates the need to open these valves for a period greater than 2000 hours, and that this system is used to maintain containment pressure within the limits of TS 3/4.6.1.4 during normal plant operation. Containment pressure

fluctuations due to postulated accidents are mitigated by safety-related systems other than the VQ System. Because these valves are assumed to be open at the onset of an accident (but would close upon receipt of an Engineered Safety Feature (ESF) signal), relaxing the restriction on the amount of time they may be open will have no effect on the accident analyses. Also, the VQ System valves are containment isolation valves and as such their closure, in response to an ESF signal, will limit the amount of containment air escaping to the atmosphere if there is concurrent loss-of-coolant accident and air release so that the release is within the limits of 10 CFR Part 100. Filters are provided on this system to remove iodine and other radioactive particulates prior to discharge to the atmosphere. Leak rate tests at Catawba have shown that these valves are highly reliable and leak tight.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendments and determined that should this request be implemented, it would not (1) involve a significant increase in the probability of an accident previously evaluated because the request does not change the design or type of operation of any safety-related systems in the plant. Also, it would not involve a significant increase in the consequences of an accident previously evaluated because the valves in the VQ System are leak tight and close upon receipt of an ESF signal.

Furthermore, the proposed amendments would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the changes do not affect the design or type of operation of any safety-related systems. For the reasons stated in the two items above, the proposed changes would not (3) involve a significant reduction in a margin of safety.

Accordingly, the Commission proposes to determine that the above changes involve no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: Kahtan N. Jabbour, Acting Director

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: April 15, 1987, as supplemented July 17, 1987 and September 16, 1987.

Description of amendment request: This change request would provide revised technical specifications (TS) to support operation of Crystal River Unit 3 for Fuel Cycle Seven. These TSs include:

- 2 Reactor safety limit and overpower trip limits
- 2 Rod insertion limits
- 2 Control rod locations and design
- 2 Axial power imbalance limits and imbalance error
- 2 Quadrant power tilt limits
- 2 Bases revision

Most of the proposed changes are necessary to reflect a longer fuel cycle. Other changes provide additional operating margins and clarify TS requirements.

Cycle Seven has been designed to last 550 effective full power days. To support this cycle length and improve fuel efficiency, various design and TS changes are being introduced. These include:

- 2 Zirc-Grid fuel assemblies (Mark-BZ) in lieu of Inconel grid assemblies
- 2 Reduced fuel rod pre-pressurization
- 2 Annealed guide tubes
- 2 Modified control rods with Inconel-clad and a larger clad-to-absorber gap.

The incore-to-excore power detector allowable error and error calculations would be revised for Cycle Seven. These revisions allow a larger power imbalance envelope and provide additional operating margin.

Shutdown margin curves and the associated action statements would be added to the rod insertion limit specifications. Specification 3.1.1.1.1 requires a surveillance of rod group position to assure an acceptable shutdown margin; if rod positions are outside the insertion limits, it is not clear whether the action of Specification 3.1.1.1.1 or 3.1.3.6 should be taken. This change clarifies the required actions.

In support of Cycle Seven operation, including the changes described above, analyses have been performed specifically for Crystal River Unit 3. These changes are described in the Reload Report submitted by the licensee by letter dated April 15, 1987.

Per the NRC Safety Evaluation for Zirc-Grid fuel assemblies, the analysis for combined seismic and LOCA loads was reviewed for Crystal River Unit 3. The previous analysis performed for Rancho Seco in 1983 envelopes Crystal River Unit 3 design conditions. The changes to fuel assemblies, including lower pre-pressurization and annealed guide tubes, were reviewed and found to be bounded by conservative analyses performed for previous cycles.

For Cycle Seven, the moderator dilution accident was reevaluated assuming a larger reactivity worth of emptying a full makeup tank, which is 1.8% delta k/k as compared to 1.0% delta k/k. The resulting thermal power, RCS pressure and subcriticality margin are within the current acceptance criteria for the moderator dilution accident, per Section 14.1.2.4.1.2 of the Final Safety Analysis Report (FSAR) for Crystal River Unit 3.

Analysis of the revised incore-to-excore power imbalance detector correlation has been performed. In accordance with this analysis, the recalibration criteria for the power detectors of Specification 3.2.1.1 is being revised from 3.5% to 2.5%. With this change, Crystal River Unit 3 will be enveloped by the referenced analysis.

The proposed shutdown margin curves for rod insertion are based on a 1.0% shutdown margin. This is consistent with Specification 3.1.1.1.1 and provides additional control to assure operation within this shutdown margin.

The extended-life control rods are not significantly different from the Standard Mark-B control rods currently in use in that the new rods do not change the operating or safety analysis. The external dimensions of the extended life control rods are the same as those for control rods currently in use. The new control rods meet the most limiting mechanical criteria and thermal hydraulic limits used for the Mark-B control rod analysis. The new rods have been used at Arkansas Nuclear One, Cycle Seven (1984) where no significant anomalies were noted. The reactivity differences are small and are conservative or within design allowances, such as poison depletion allowance. The new control rods weigh the same as the standard design, 130 pounds, so trip times and control rod mechanism loads are maintained. The extended life control rods are designed to meet requirements for position indication and rod drop times. The design differences between the current control rod and the extended life control rod have a negligible effect on reactivity control and shutdown capability. While the design differences change FSAR and Technical Specification design descriptions, the safety analyses are not affected.

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 licensee has determined that this amendment does not involve a significant hazards consideration. This reload involves the reinsertion of fuel assemblies of a type previously used by Crystal River Unit 3 and the insertion of 80 new fuel assemblies of the Mark-BZ type. The Mark-BZ fuel assemblies are similar to previously approved assemblies and differ only slightly in the use of Zircaloy spacer grids rather than Inconel grids, annealed guide tubes and a modified holddown spring. The use of Mark-BZ fuel assemblies has previously been reviewed and approved by the staff for Rancho Seco.

The Cycle Seven control rods are slightly different from those of previous cycles. The new control rods have a larger clad-to-absorber gap, thicker clad, and new clad material (Inconel) in order to increase its lifetime. The overall dimensions are the same with a longer-length absorber within the rod to compensate for the reduced diameter. The use of this type of control rod has been previously approved by the NRC staff for Arkansas Nuclear One, Unit 1.

The revised power imbalance detector correlation is a new application of an analytical error calculation method for Crystal River Unit 3. This revision involves statistically combining assumed errors and tightening the allowable detector error to provide additional operating margin within the imbalance curves. This application has been previously accepted for use at another B&W facility.

The addition of the shutdown margin curve to the rod insertion limits is an additional limitation to clarify the TS. Additionally, the proposed curve is consistent with NRC Guidelines contained in NUREG-0103, Standard Technical Specifications.

Based on the above, the licensee has determined this change will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. Each FSAR accident analysis was examined to determine the effects of the Cycle Seven reload parameters. A discussion of this effort and the results are provided in the submitted Reload Report. The accident doses resulting from the reload would not be significantly different than current accident doses. Additionally, the moderator dilution accident was reevaluated with minor changes to makeup tank reactivity. The results were not significantly different from current accident analysis results and were within FSAR acceptance criteria.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the reload modifications are not significant changes and have been previously reviewed by the NRC staff.

(3) Involve a significant reduction in a margin of safety because design analysis and proposed TS assure an equivalent margin of safety. The fuel and control rod modifications and the revised power imbalance detector correlation are within established acceptance criteria as shown by the referenced analysis.

Thus, the licensee has determined the Cycle Seven reload and resultant TS meet NRC guidelines for an amendment which does not involve a significant hazards consideration.

The Commission's staff has reviewed the licensee's no significant hazards consideration findings and, based on its review, agrees with the licensee's conclusions. Accordingly, the staff proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Crystal River Public Library, 668 NW, First Avenue, Crystal River, Florida 32629

Attorney for licensee: R. W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Herbert N. Berkow

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: August 26, 1987

Description of amendment request: The proposed amendment would revise the alarm/trip setpoint limit for the chlorine detection systems which initiate operation of the Control Room Emergency Filtration System in the isolation mode. The setpoint limit of specification 3.3.3.7 would be changed from 2 ppm to 5 ppm.

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 considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and has determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated. The change only affects the chlorine concentration at which operation of the Control Room Emergency Filtration System is automatically initiated in the isolation mode. The change of the chlorine detection system setpoint to 5 ppm is consistent with Regulatory Guide 1.95. The higher setpoint of 5 ppm still allows the operators 7 minutes, 29 seconds (based on 0.7 m/s windspeed) to don breathing apparatus. This time is considerably in excess of the two minute guideline contained in Regulatory Guides 1.78 and 1.95.

Also, the licensee's proposed changes would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because no new or novel features would be added to plant design. Finally, the licensee's proposed changes would not (3) involve a significant reduction in a margin of safety because the control room operators continue to have significantly greater than the two minute guideline in which to don the protective breathing equipment.

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, Candler Building, Suite 1400, 127 Peachtree Street, N.E., Atlanta, Georgia 30043

NRC Project Director: Kahtan N. Jabbour, Acting

Indiana and Michigan Electric Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: October 5, 1987

Description of amendments request: The proposed amendments would amend the licenses to change the name of the licensee from the Indiana and Michigan Electric Company to the Indiana and Michigan Power Company wherever it appears in the licenses.

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), is a purely administrative change to technical specifications. The proposed name change of the licensee is directly related to this example. It does not in any way affect or alter the Company's assets, financial condition, corporate structure, or corporate organization. It is a change in name only. On this basis the staff proposes to determine that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David L. Wigginton, Acting.

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: July 6, 1987, as partially superseded October 23, 1987

Description of amendment request: The application dated July 6, 1987 requested three changes to the Technical Specifications (TSs): (1) an increase in the setpoint for the pump relief valve in a surveillance requirement for the standby liquid control system (SLCS); (2) revision of certain action statements to allow entry into operational conditions, provided the requirements in the action statements are met; and (3) deletion of the requirements for certain isolation valves and associated instrumentation to be operable in refueling shutdowns.

The first request was addressed in Amendment 36 issued September 30, 1987. The third request will be addressed separately. This amendment would address the second request, as superseded by the licensee's October 23, 1987 letter. This amendment would provide one-time exceptions to TS 3.0.4 during the second refueling outage while in Operational Conditions 4 or 5 to allow entry into specified operational conditions without meeting the Limiting Condition for Operation (LCO), provided the requirements of the associated action statements are met.

This notice supersedes portions of the notice published in the **Federal Register** on August 12, 1987 concerning TS 3.0.4 exceptions (52 FR 29921).

TS Section 3.0.4 states:

3.0.4 Entry into an Operational Condition or other specified condition shall not be made unless the conditions for the Limiting Condition for Operation are met without reliance on provisions contained in the Action requirements. This provision shall not prevent passage through or to Operational Conditions as required to comply with Action requirements. Exceptions to these requirements are stated in the individual Specifications.

The proposed changes to the TSs would provide exceptions to TS 3.0.4 during the second refueling outage for the following TSs.

The first proposed change will add a new Action "c" and "**" footnote to Specification 3.4.9.2, Reactor Coolant System - Cold Shutdown, to state that the provisions of Specification 3.0.4 are not applicable and that the change is applicable until startup from the second refueling outage.

The second proposed change will add a statement to Action "a" of Specification 3.5.2, Emergency Core Cooling System (ECCS) - Shutdown, to state that the provisions of Specification 3.0.4 are not applicable. A "a" footnote will also be added to state that the change is applicable until startup from the second refueling outage.

Specification 3.7.1.1, Standby Service Water (SSW) System, Action Statements "b," "c" and "d" are proposed to be changed by adding the statement that the provisions of Specification 3.0.4 are not applicable. The change to Action Statement "b" will only be applicable for entry into Operational Condition 4. Also added is a "*" footnote to state that the change is applicable until startup from the second refueling outage.

The fourth proposed change will add a new Action "c" to Specifications 3.9.11.1 and 3.9.11.2, Refueling Operations - Residual Heat Removal (RHR) and Coolant Circulation, to state that the provisions of Specification 3.0.4 are not applicable. Also added is a "a" footnote to state that the change is applicable until startup from the second refueling outage.

During the second refueling outage, presently scheduled to extend from November 6, 1987 through January 8, 1988, various combinations of ECCS and RHR systems will be made inoperable to perform required maintenance, surveillance testing and inspections and to make design changes. These activities will require the plant to enter action statements for shutdown cooling and ECCS at various times during the outage. These proposed changes will provide one-time exceptions to TS 3.0.4 for these specifications for the second outage only, to allow the plant to enter Operational Conditions 4 and 5 and to allow reactor head tensioning, reactor cavity flooding and reactor cavity draining while in these action statements. With the present TSs, these ECCS and RHR maintenance and testing activities would have to be interrupted during head tensioning and reactor cavity flooding and draining in order to make the ECCS and RHR operable as required by the LCO of the TSs. After completing the head tensioning, reactor cavity flooding and reactor cavity draining, the ECCS and RHR systems would again be made inoperable and the action statements entered to complete maintenance and testing activities.

In addition to the TS requirements, the licensee's outage policy is to maintain at least one ECCS system and one fuel pool cooling and cleanup system functional at all times. Also, at least one shutdown cooling mode train of RHR will be functional throughout the outage unless required maintenance or testing activities preclude this. The diesel generator associated with each of the above systems is also required to be functional. In accordance with this outage policy, the current outage schedule (which will utilize these proposed changes) provides for separate outage intervals for the two RHR shutdown cooling subsystems, ensuring that the overlap when both loops are inoperable is minimized and is scheduled at a time when the reactor cavity is flooded. Both loops of RHR shutdown cooling are scheduled to be out-of-service approximately eight days while conducting ECCS testing and repairs and leak rate testing on the common suction valves. This maintenance is required, and the resultant outage of both RHR shutdown cooling loops cannot be avoided.

During the time when both loops of RHR shutdown cooling are out-of-service, the present outage schedule requires that the fuel pool cooling and cleanup system and the reactor water

cleanup system be used for alternate decay heat removal. Calculations have been performed by the licensee to project the times after shutdown that each alternate decay heat removal system will be able to maintain reactor coolant average temperature below the 140° F limit. In accordance with the plant administrative procedures, these systems will be demonstrated by testing to have adequate decay heat removal capability prior to the intentional removal of any RHR shutdown cooling loop from operability. This approach to identifying, analyzing, and testing alternate heat removal paths is standard operating practice and has been successfully executed in both of the licensee's major outages since declaring commercial operation (Fall 1985 and Fall 1986).

These proposed TS changes will represent a significant savings in the time required to complete the second refueling outage by allowing reactor vessel head tensioning activities and reactor cavity flooding and draining evolutions while in action statements. These changes will result in decreasing the length of the outage by approximately 10 to 14 days while maintaining the level of safety of the plant in accordance with the appropriate action statements.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of significant hazards considerations in its request for a license amendment. The licensee has concluded, with appropriate bases, that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations.

The licensee's analysis is reproduced below.

The changes proposed by this submittal are intended to provide operational flexibility during refueling outages while ensuring core decay heat removal capability and ECCS water injection requirements. The net affect of the proposed technical specification changes may allow the plant to remain in the action statements of the affected specifications for slightly longer periods of time during the second refueling outage than present requirements allow. However, while in the action statements, technical specification requirements are such that decay heat removal methods are established and two ECCS systems are restored within 4 hours or operations with a potential to drain the reactor vessel are stopped.

The proposed specification 3.0.4 exceptions will not reduce the ECCS and decay heat removal system requirements for Operational Conditions 4 and 5 that exist in the subject specifications. In addition to technical specification requirements, it is SERI outage policy to minimize time in the action statements, demonstrate capability of alternate cooling methods prior to their use and to minimize the time when both RHR shutdown cooling subsystems are inoperable. SERI policy requires that prior to removal from service, the impact of the removal from service be evaluated and adequate alternates be established as required. This SERI policy will be implemented by technical specification position statement and exceptions will be controlled by the Plant Safety Review Committee.

The proposed change[s] [do] not involve a significant increase in the probability or consequences of an accident previously evaluated. SERI has evaluated UFSAR Chapter 15 events which are considered to be applicable during Operational Conditions 4 and 5. These events include a dropped fuel bundle and inadvertent criticality. The proposed specification 3.0.4 exceptions cannot affect the probability of occurrence of any of these events. The proposed 3.0.4 exceptions would not be utilized during fuel handling evolutions in the containment and would have no effect on fuel handling operations in the spent fuel pool. The proposed changes have no affect on control rod interlocks or fuel loading errors and thus do not affect the probability of occurrence of an inadvertent criticality. The proposed changes will allow the following evolutions to occur during the second refueling outage while in the action statements of the affected technical specifications:

a. Tensioning the reactor vessel head.

b. Lowering the reactor cavity water level to less than 22 feet 8 inches above the reactor pressure vessel flange.

c. Raising the reactor cavity water level to greater than 22 feet 8 inches above the reactor pressure vessel flange.

The above evolutions will be performed while in the action statements associated with ECCS shutdown requirements and while in action provisions concerning the number of RHR shutdown cooling loops that are required operable. Presently, without the requested 3.0.4 exceptions, the required ECCS and RHR systems would have to be made operable just to perform the above 3 evolutions and then they may be made inoperable again for maintenance or testing reasons. The evolution of making systems operable just to change from Operational Condition 4 to 5 (or 5 to 4) and to change reactor cavity water level represents significant impact on the refueling outage. With the proposed changes the outage length can be decreased by approximately 10 to 14 days.

The proposed changes do not affect the consequences of an accident previously evaluated. The proposed changes do not reduce the number of ECCS systems or RHR shutdown cooling loops available during the second refueling outage. The changes may increase by a small amount the total time during the outage that the plant is in the action requirements of the affected technical specifications. This increased time in the action results from not having to make systems operable to exit an action just to perform the evolutions described above. In addition, SERI policy looks at the overall outage plan and attempts to optimize testing and maintenance periods on ECCS and decay heat removal systems in order to ensure optimum availability while at the same time accomplishing required maintenance and testing activities.

Even though the proposed changes do not reduce the number of ECCS and RHR systems available during the second refueling outage, SERI believes system availability is important and policy will establish an objective to maintain at least one ECCS system and one Fuel Pool Cooling and Cleanup System functional at all times. The objective of the SERI policy is also to maintain at least one shutdown cooling mode of RHR functional from the beginning of the outage until alternate heat removal methods can handle the load. Both RHR shutdown cooling loops will be inoperable for approximately eight days while conducting ECCS testing and required maintenance and testing on the common suction line. After this evolution one RHR shutdown cooling loop will be placed back in service. As part of the SERI policy objectives, the diesel/generator associated with each of the above systems will be maintained functional. SERI will minimize the time during the outage when both loops of RHR shutdown cooling are out-of-service in order to minimize reliance on alternate decay heat removal methods.

The proposed changes involving RHR shutdown cooling affect Specifications 3.4.9.2, 3.7.1.1 Actions "b" and "d," 3.9.11.1 and 3.9.11.2. The Action Statements of Specifications 3.4.9.2, 3.9.11.1 and 3.9.11.2 contain provisions to establish alternate methods of decay heat removal, when necessary, with RHR shutdown cooling loops inoperable. These alternate methods of decay heat removal are procedurally prescribed prior to entering an outage based on available equipment and planned outage activities. Since decay heat removal is provided for in the action statements of the affected specifications, entry into the operational conditions with less than the required number of RHR shutdown cooling loops available does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change to Specification 3.7.1.1 Actions "b" and "d" affect the SSW subsystems that support the RHR shutdown cooling loops. With an SSW subsystem inoperable, its associated RHR shutdown cooling loop is also required by the [t]echnical [s]pecifications to be declared

inoperable. Entering Operational Conditions 4 and 5 with this SSW subsystem and associated RHR shutdown cooling loop inoperable represents no significant increase in the probability or consequences of an accident previously evaluated. The proposed changes to Specification 3.5.2 and 3.7.1.1 Action "c" will allow operational condition changes with one ECCS subsystem/system operable. Since only Operational Conditions 4 and 5* are affected, present technical specifications indicate that one ECCS subsystem/system is sufficient for water makeup requirements for the four hour time allowance of Action "a" of Specification 3.5.2 to restore at least two required ECCS subsystems/systems. The proposed change to Action "c" of Specification 3.7.1.1 is similar to that for Actions "b" and "d" such that when equipment is out-of-service, a support system such as SSW is not required to be operable for that ECCS function. Since ECCS makeup capability is provided while in Action "a" of Specification 3.5.2, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not create the possibility of a new or different kind of accident from any previously analyzed. The proposed changes do not reduce the number of ECCS or RHR shutdown cooling loops available during the second refueling outage. The proposed changes do not increase the potential for draining the reactor vessel. Since decay heat removal and ECCS capability are not decreased by the proposed changes, there is no possibility of a new or different kind of accident from any previously analyzed. The proposed changes will allow increased times in the action statements of the affected technical specifications, but this time will be minimized by SERI written policy. The proposed changes are intended to increase outage flexibility while maintaining necessary levels of plant safety.

The proposed change[s] [do] not involve a significant reduction in a margin of safety. The proposed specification 3.0.4 exceptions will still ensure that core decay heat removal and ECCS makeup capabilities are available during the second refueling outage. In addition to technical specification action requirements, SERI policy is to maintain at least one ECCS system and one Fuel Pool Cooling and Cleanup System functional at all times during the outage. RHR shutdown cooling loops will be functional unless maintenance or testing removes them from service. The effect of the proposed changes will allow increased time in the action statements during the second refueling outage. However, this time is relatively small and results from not having to make systems operable just to exit action statements and perform evolutions like tensioning the reactor vessel head and changing water level in the reactor vessel cavity. After these evolutions, the affected system could be removed from operability for required maintenance or testing. SERI outage policy will minimize time in the action statements as much as possible. Since decay heat removal and ECCS functions are available as necessary during the outage, the change does not involve a significant reduction in a margin of safety.

The NRC staff concludes, based on its preliminary analysis of the licensee's submittal, that the proposed changes to the TSs by adding one-time exceptions to TS 3.0.4 for the second refueling outage meet the standards in 10 CFR 50.92.

Accordingly, the Commission proposes to determine that the proposed changes to the TSs do not involve significant hazards considerations.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Lieberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: October 9, 1987

Description of amendment request: The amendment would make changes to the Technical Specifications by replacing some of the spent fuel assemblies with new (reload) fuel assemblies, which are needed for fuel cycle 3 operation. The reload fuel assemblies are supplied by the Advanced Nuclear Fuels (ANF) Corporation, previously known as the Exxon Nuclear Company (ENC). The fuel cycle 3 core would consist of 248 General Electric (GE) Company fuel assemblies from the initial core loading, 264 ANF fuel assemblies from the first refueling and 288 ANF fuel assemblies from this refueling. Of the 288 new fuel assemblies added in this reload, 204 assemblies would contain 6 Gadolinium oxide nuclear poison rods and 84 assemblies would contain 8 poison rods. ANF methods of analysis of fuel protection limits for fuel cycle 3 are the same as those used in fuel cycle 2. Based on results of the licensee's reload analysis, Technical Specifications for cycle 3 would remain the same as those for cycle 2, except that two new curves of power distribution limits would be added for the two new types of ANF fuel assemblies and the average planar exposure limit would be increased to allow for increased burnup in fuel cycle 3. In addition, an administrative change would be made to correct an error in Figure 3.2.1-3.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of significant hazards considerations in its October 9, 1987 request for a license amendment. The licensee has concluded, with appropriate bases, that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations.

The Commission has also provided guidance concerning the application of these standards by providing examples of amendments considered likely, and not likely, to involve a significant hazards consideration. These examples were published in the **Federal Register** on March 6, 1986 (51 FR 7744). The NRC staff has made a preliminary review of the licensee's submittal. A discussion of these examples as they relate to the proposed amendment follows.

One of the examples of actions involving no significant hazards consideration is (iii), a change resulting from a reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This example assumes that no significant changes are made to the acceptance criteria for the Technical Specifications or to the analytical methods previously found acceptable by the NRC. The proposed changes to the Technical Specifications requested for this reload are similar to this example. The ANF reload fuel assemblies are a square bundle of 8x8 fuel rods, like the GE spent fuel assemblies they replace. The dimensions and design of the ANF fuel are very similar to those for the GE fuel. The fuel safety limits remain the same for the ANF fuel as for the GE fuel. The calculated peak cladding temperature for ANF fuel following a loss-of-coolant accident is significantly below the 10 CFR 50.46 limit as it is for the GE fuel. The ANF methods of analysis of loss-of-coolant accidents and transients have been previously approved by the NRC staff either on a generic basis or a plant-specific basis. Limits developed for fuel

cycle 1 single loop operation, increased core flow region, and extended load region will remain the same for fuel cycle 3.

Another example involving no significant hazards is (i), an administrative change to correct an error. The proposed correction to Figure 3.2.1-3 is similar to this example.

Because the proposed changes are similar to examples in 51 FR 7744 which are likely to involve no significant hazards considerations, the Commission proposes to determine that these changes to the Technical Specifications do not involve significant hazards considerations.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 10, 1987

Description of amendment request: The proposed amendment would modify the Appendix A Technical Specifications relating to the Fire Protection Program. There are eleven proposed changes:

(1) Section 6.2.1.B.7, which requires periodic fire protection audits to be conducted under the cognizance of the Safety Review and Audit Board (SRAB) would be editorially revised for improved clarity with respect to who conducts each periodic audit and at what frequency.

(2) Sections 3.19 and 4.19 of the Technical Specifications would be revised to define which Fire Area Barrier and Penetration Fire Seals are subject to operability and surveillance requirements.

(3) Section 3.19 would be revised to change the phrase "fire barrier" to "fire area barrier".

(4) Section 3.19 would be revised to permit the use of an hourly fire watch patrol in lieu of a continuous fire watch, when the integrity of a fire area barrier or penetration fire seal cannot be maintained, provided the operability of fire detectors on at least one side of the nonfunctional barrier can be verified.

(5) Sections 3.19 and 4.19 would be revised to substitute the term "Penetration Fire Seal" for "Fire Wall Penetration Seal."

(6) Bases for Technical Specifications Sections 3.19 and 4.19 would be revised consistent with the above changes to the Limiting Conditions for Operation and Surveillance Requirements.

(7) In Section 4.14.B the expression "NFPA Code" regarding supervised circuits associated with the fire detector alarms, would be changed to "NFPA Standard". The same technical specification also refers to "Class B supervised circuits supervision" with the word "supervision" being redundant. The proposed amendment would delete the word "supervision".

(8) Section 4.14.B would be revised to include Class A supervised circuits in the Surveillance Requirements applicable to fire detection circuits.

(9) Section 4.15 would be revised to delete statements that are no longer meaningful. The existing 4.15 requires a diesel fire pump fuel storage inventory of 150 gallons. A footnote states that the requirement becomes 250 gallons when the clean water fire protection system becomes operable. The clean water fire protection is now operable and the 250 gallon limitation applies. The amendment would change the "150" to "250", and delete the footnote.

(10) Sections 3.20 and 4.20, Limiting Conditions for Operation and Surveillance Requirements for the Yard Fire Hydrant and Hydrant Hose House would be deleted. These requirements were added to the facility Technical Specifications as Amendment No. 66. At that time, the system configuration consisted of two electric motor driven fire pumps and one diesel engine driven fire pump, all located in the Service Water Pump Room which also contains the four Service Water Pumps. As a result of concern about the possibility of common mode failure of the seven pumps due to fire in the Service Water Pump Room, Sections 3.20 and 4.20 were added to provide additional fire protection to that space. Since that time, one of the two motor driven fire pumps and the diesel driven fire pump have been relocated to a separate pumphouse and a Halon fire suppression system has been installed in the Service Water Pump Room. With the present configuration, the concerns which led to Sections 3.20 and 4.20 have been eliminated.

(11) New operability and surveillance requirements for an additional smoke detector located in the Auxiliary Relay Room would be added to the Technical Specifications. The need for the additional smoke detector was determined during an Appendix R audit (Inspection Report 50-298/86-51). Table 3.14 of the Technical Specifications would be modified to include the additional detector as instrument FP-SD-15-10. (Associated with this change would be the addition of "SW = Service Water" to the legend for Table 3.14.)

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (51 FR 7751). These examples include:

(i) A purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature.

(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example a more stringent surveillance requirement.

(iv) A relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated. This assumes that the operating restriction and the criteria to be applied to a request for relief have been established in a prior review and that it is justified in a satisfactory way that the criteria have been met.

(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or reduce in some way a safety margin, but where the results of the exchange are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (SRP): for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

Change (1) would not modify the scope, frequency or personnel qualifications applicable to the SRAB fire protection audits nor would it affect the effectiveness of the audit program. It would only clarify the wording to preclude possible misinterpretation. The change is therefore within the scope of example (i).

Change (2) would limit the applicability of fire barrier and fire seal penetration Technical Specifications to exclude from coverage those barriers and seals which have no affect on reactor safe shutdown capability. The present Technical Specifications are erroneously worded such that they are subject to the misinterpretation that every fire barrier and penetration

located at the facility is subject to the Technical Specifications requirements. The amendment clarifies the applicability statement so as to correct the error and is therefore within the scope of criterion (i).

Change (3) would make a change in nomenclature for consistency and is therefore within the scope of example (i).

Change (4) would permit use of an interim compensatory measure in event of degraded equipment. The interim measure may be less effective than fully operable equipment but is consistent with the staff criteria of the Standard Review Plan. Change (4) therefore is within the scope of example (vi).

Change (5) is a minor change in nomenclature and is within the scope of example (i).

Change (6) affects only the Bases. The Bases are not part of the Technical Specifications. This change will be issued with the amendment for convenience but is not part of the amendment.

Change (7) corrects an editorial error and eliminates an editorial redundancy. It is therefore within the scope of example (i).

Change (8) adds a new limitation. It is therefore within the scope of example (ii).

Change (9) is an administrative correction within the scope of example (i).

Change (10) reflects modifications performed to improve fire protection. The modifications relieve any further need for certain operability and surveillance requirements that were put in place due to staff concerns about the possibility of common mode failure. The change is within the scope of example (iv).

Change (11) constitutes an additional limitation within the scope of example (ii).

Since the application for amendment involves proposed changes that are encompassed by examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: 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, Docket No. 50-423, Millstone Nuclear Power Station Unit 3 New London County, Connecticut

Date of amendment request: September 9, 1987 and supplemented September 9, 1987, and September 30, 1987.

Description of amendment request: The amendment would revise Millstone Unit No. 3 Technical Specification Sections to support the Cycle 2 reload. These changes will allow a positive moderator temperature coefficient (PMTC) at reactor power levels less than 100%. In addition, the changes are required as a result of the project to replace the existing resistance temperature detector (RTD) bypass system with thermowell-mounted RTDs. The changes are:

A. *Technical Specification Changes due to Cycle 2 Reload*

1. *Section 3.1.1.3* - The change would allow a +5 pcm/° F MTC below 70 percent of rated power, ramping down to 0 pcm/° F at 100 percent power.

2. *Section 3.1.2.5, 3.1.2.6 and 3.5.4* - The change will increase the range of acceptable boron concentration in the Refueling Water Storage Tank (RWST) to 2300 - 2600 ppm from the previous range of 2000-2200 ppm.

3. *Section 3.5.1* - The change will increase the range of acceptable boron concentration in the Accumulators to 2200 - 2600 ppm from the previous range of 1900 - 2200 ppm.

4. *Section 3.6.2.3* - The change will increase the range of acceptable sodium hydroxide concentrations in the chemical addition tank (CAT) to 2.41 - 3.10% from the previous range of 1.35 - 2.00%. The volume (level) in the CAT is reduced to a range of 18000 - 19000 gallons from the previous range of 19100 - 20100 gallons.

5. *Section 3.9.1* - The change will increase the boron concentration in the filled portion of the reactor coolant system (RCS) and refueling canal during Mode 6 to correspond with the new minimum RWST boron concentration.

B. *Technical Specification Changes due to the Elimination of the RTD Bypass System*

1. *Table 2.2-1* - The change will revise the values of "Z" and Sensor Error(s) for the overtemperature delta-T and overpower delta-T trips. In addition, the change will revise the values of "Z", the sensor error(s) and the allowable value for the reactor coolant flow-low trip. In the Table notations for Table 2.2-1 changes are proposed to note 1 to specify how delta-T is to be measured, and to change the lead-lag compensator time constant tau-1. Notes 2 and 4 are to be revised to change the amount by which a channel maximum trip setpoint may exceed it computed trip setpoint.

2. *Sections 3.2.3.1 and 3.2.3.2* - The change will revise the minimum RCS flow rates for both four and three-loop operations. The uncertainty values for flow measurement specified in Sections 3.2.3.1 and 3.2.3.2 are also to be changed.

3. *Table 3.2-1* - The change will revise the values specified for RCS Tave and Pressurizer Pressure which are the limits assumed in the safety analysis.

4. *Table 3.3-2* - The change will revise the response time for the overtemperature delta-T and overpower delta-T trip functions.

5. *Table 4.3-1* - The change will delete the reference to footnote in Table 4.3-1, since it is no longer relevant once the RTD bypass system is removed.

6. *Table 3.3-4* - The change will revise the allowable values for functional Unit 5.d.1 and 5.d.2, "Tave low coincident with reactor trip (P-4)" and Functional Unit 9.b, "ESFAS Interlocks - Low Low Tave (P-12)."

7. *Table 3.3-5* - The change will revise the response time for feedwater isolation on Tave low coincident with reactor trip (P-4).

C. *Other Technical Specification Changes*

1. *Section 3.4.1.6* - The existing specification would require that the boron concentration of an isolated loop be greater than 2300 ppm prior to bringing it back into service if necessary to match the boron concentrations of the operating loops. The change will require a boron concentration of at most 2300 ppm.

Basis for proposed no significant hazards consideration determination: NNECO has reviewed the proposed changes pursuant to 10 CFR 50.59 and has determined that they constitute an Unreviewed Safety question due to a small increase in the radiological consequences of a Locked Rotor Accident for three-loop operation, but has determined the proposed changes to be acceptable and safe.

NNECO has also reviewed the proposed changes in accordance with 10 CFR 50.92 and has concluded that they do not involve a significant hazards consideration because the changes do not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The only accident for which the radiological consequences are affected is by the proposed changes to the allowable moderator temperature coefficient for the Locked Rotor Accident for three-loop operation. The calculated increase

in radiological consequences are not significant. The 0-2 HR EAB thyroid dose only increases by 1 Rem or 0.3% of the 10 CFR Part 100 limit. The 0-2 HR EAB whole body dose only increases by 0.52 Rem or 2% of the 10 CFR Part 100 limit. The LPZ thyroid dose only increases 3.1 Rem or 1% of the 10 CFR Part 100 limit. The LPZ whole body dose increases by 0.047 Rem or 0.2% of the 10 CFR Part 100 limit. Since the above increases in consequences are not significant, the proposed changes do not involve a significant hazards consideration. In addition, the proposed changes will not have any impact on the probability of occurrence of any design basis accident. The design basis accidents were evaluated for the impact on accident consequences by the changes to the Technical Specification Sections 3.4.1.6, 3.9.1.2 and 5.3.1. In all postulated fuel handling accidents K_{eff} remains less than 0.95. In the boron dilution event, the initial conditions assumed and the results obtained are not changed. In addition, the changes will not have any impact on the probability of occurrence of any design basis accident.

2. Create the possibility of a new or different kind of accident from any previously evaluated. There are no new failure modes associated with these changes and the impacts are all covered by the existing design bases. It is possible that plant response to transients will change due to the positive moderator temperature coefficient (PMTC). Some changes to control systems may be required although it is not expected. This will not affect the safety analysis or create a new accident since credit for control systems is not assumed in the PMTC re-analyses. The changes, resulting from the replacement for the RTD bypass system with thermowell-mounted RTDs, will not physically affect the performance or reliability of any protection or control system. There are no new failure modes associated with these changes.

3. Involve a significant reduction in a margin of safety. The consequences of transients reanalyzed for the PMTC have not degraded to the point of reducing the margin of safety. Also, from a chemistry, corrosion and material compatibility standpoint there were no concerns identified. Therefore, there is no effect on the protective boundaries. In addition, the changes, resulting from the elimination of the RTD bypass system, have no adverse impact on the basis of any Technical Specification. The only changes are to the specific values of the parameters contained in the Technical Specification. Therefore, the proposed changes do not reduce the margin of the safety as specified in the basis of any Technical Specification. For the change to the Technical Specification Section 3.4.1.6, there is no increase in the consequences of any accident. Therefore, there will be no impact on the protective boundaries. For the changes to Technical Specification Sections 5.3.1 and 3.9.1.2, steady state and accident condition results show that K_{eff} in the spent fuel pool remains less than 0.95. Therefore, there is no impact on the safety limits. Thus, the changes do not reduce the margin of safety as specified in the basis of any Technical Specification.

The licensee has therefore concluded that the three criteria of 10 CFR 50.92(c) are not compromised and the proposed amendment does not involve a significant hazards consideration. The staff has reviewed the licensee's submittal and agrees with its no significant hazards consideration determination.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385

Attorney for licensee: Gerald Garfield, Esq., Day, Berry, and Howard, City Place, Hartford, Connecticut 06103-3499

NRC Project Director: John Stolz

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 12, 1987

Description of amendment request: The proposed amendment would revise Technical Specifications (TSs) contained in Appendix A of the Operating Licenses with changes related to the implementation of a Hydrogen Water Chemistry (HWC) program to improve reactor water chemistry and thus to reduce the potential for intergranular stress corrosion cracking.

(A) The licensee proposes to amend Technical Specification (TS) pages 38, 48, 61, 63, and 90 to reflect a change in the trip setpoint for the main steamline radiation monitor (MSLRM) from a trip setpoint value of three times the normal full power background (NFPB) radiation level to 15 times NFPB. Normal full power background (NFPB) is defined for these purposes as the radiation level at the MSLRM associated with normal full power operations without the use of hydrogen water chemistry. A trip setpoint value three times NFPB has been previously chosen to provide sufficient margin to avoid spurious trips while providing appropriate protection from a control rod drop accident. With the use of HWC the normal background levels at the MSLRM may increase by as much a factor of five due to the increase in nitrogen-16 (N-16) which is attributable to chemical changes that occur in the reactor with hydrogen addition. Therefore, in order to maintain the original margin provided by a trip setpoint-to-background ratio of three the licensee proposes to raise the trip setpoint value to 15 times the NFPB levels which would exist without HWC.

(B) The licensee proposes to amend TS page 63 to modify the alarm setpoint value of 1.5 times NFPB to a value determined from operating experience.

(C) The licensee also proposes to amend the BASES TS page 48 to delete reference to the air ejector offgas monitor isolation trip feature. Deletion of this trip feature had been approved in license amendment numbers 102 and 104 but this associated change to the BASES page 48 was inadvertently omitted at that time.

(D) The licensee proposes to delete Note 14 from Unit 3 TS pages 38 and 40 and a reference to the same Note, identified as Note 10, on Unit 3 TS page 61. The one-time only test to determine feasibility of HWC, to which this note refers, has been completed and the note was accordingly deleted from one of the two tables in which it appears by a previous amendment. Since the test has been completed the note is now meaningless and the licensee proposes its deletion.

(E) The licensee proposes to revise the format for TS Table 3.1.1 on pages 37 and 38 and TS Table 3.2.A on pages 61 and 62 by adding a column to the table which provides a reference number for each of the items listed in the table.

The above changes will facilitate the Hydrogen Water Chemistry (HWC) program developed by the Philadelphia Electric Company to improve reactor water chemistry at Peach Bottom Units 2 and 3. The purpose of the program is to reduce the effects of Intergranular Stress Corrosion Cracking (IGSCC) of stainless steel piping. Hydrogen Water Chemistry, which consists of the combination of good water chemistry and the addition of hydrogen to the feedwater, has been shown to be effective in arresting pipe cracking and pipe crack growth. Addition of hydrogen decreases the oxidizing power of the reactor water and reduces its aggressiveness toward coolant system materials.

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.

With respect to the change in the main steamline radiation monitor (MSLRM) trip setpoint described in part (A) above, the licensee's updated FSAR in Section 7.12 states that the safety objective of the MSLRM system is to monitor for the gross release of fission products from the fuel and, upon indication of such failure, to initiate appropriate action to limit fuel damage and contain the released fission products. When a significant increase in main steamline radiation level is detected, trip signals are transmitted to the reactor protection system, the isolation systems and to the condenser mechanical vacuum pump. The radiation trip setting is selected so that a high radiation trip results from the fission products released in the design basis control rod drop accident (CRDA). The CRDA is analyzed in updated FSAR Section 14.6. The licensee states that the calculated dose rate from the CRDA at the MSLRM's is 55 rem/hr and that this is four times the proposed setpoint of approximately 13.7 rem/hr. Thus, the current setpoint value of 3 times NFPB (approximately 2.7 rem/hr) would be increased to 15 times NFPB (approximately 13.7 rem/hr). The licensee indicates that the main steamline radiation levels are modeled to change as a step increase for the CRDA, which causes a step increase in sensed activity by the detector. Although the new setpoints are closer to the predicted main steamline radiation levels for the CRDA, the MSLRM response time for the proposed setpoint remains bounded by the licensee's assumption, in the current updated FSAR analysis, of a 0.5 second instrument loop response time. Therefore, the licensee maintains that the total time required to isolate the main steamlines, and the associated total amount of fission product activity transported to the condenser before the steam lines are isolated, remains bounded by the assumptions and results of the CRDA analysis in the updated FSAR.

The capability to monitor for fuel failures is not affected by this change. The Main Steam Line Radiation Monitor's operating detection range is not changed. The Steam Jet Air Ejector Discharge Radiation Monitor, which is more sensitive to fuel failures than the Main Steam Line Radiation Monitor, is not affected by this change and will be capable of alerting the plant staff to the existence of minor fuel failures which could be present below the proposed trip setpoint.

Thus, the proposed amendment discussed in part (A) above will not involve a significant increase in the probability of the control rod drop accident previously evaluated in updated FSAR Section 14.6 since the change in the trip setpoint of the MSLRM instrumentation used to detect the occurrence of the CRDA does not have an effect on those events which could lead to the accident. The consequences of the CRDA would not increase significantly because, as discussed above, the total time to isolate the steamlines and the associated total amount of fission product activity transported to the condenser remains bounded by the values in the updated FSAR.

The proposed amendment discussed in part (A) does not create the possibility of a new or different kind of accident from any previously evaluated because the modification merely adjusts the trip setpoint assumption in an accident analysis that remains bounded by the results currently contained in the updated FSAR. No other station instruments or equipment are involved.

The proposed amendment discussed in part (A) does not involve a significant reduction in a margin of safety since the radiological consequences estimates for the accident do not change as a result of this modification and thus remain bounded by those currently reported in the updated FSAR.

Modification of the alarm setpoint discussed in part (B) above does not involve a significant increase in the probability of an accident previously evaluated because changing the alarm setpoint will have no effect on those events which could lead to the accident. Changing the alarm setpoint does not involve a significant increase in the consequences of an accident previously evaluated because there are no actions dependent on the alarm for which credit is taken in the current updated FSAR, which continues to provide bounding values for the CRDA consequences. The modification discussed in Part (B) does not create the possibility of a new or different kind of accident from any previously evaluated since changing the alarm setpoint will not affect the design of systems and components involved in initiating the CRDA. The modification discussed in Part (B) does not involve a significant reduction in a margin of safety since the radiological consequences for the CRDA do not change as a result of this modification and thus remain bounded by those currently reported in the updated FSAR.

With respect to the changes discussed in items (C), (D), and (E) above, it is noted that the Commission has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples [March 6, 1986, 51 FR 7744] of amendments that are not likely to involve a significant hazards consideration. These proposed changes to correct administrative errors and to improve the format of the TS are enveloped by example (i) which relates to purely administrative changes for correction of an error or a change in nomenclature. The staff proposes to determine that these amendments do not involve significant hazards considerations since they correct previous errors and revise the format of several tables.

Based on the above discussions for items (A), (B), (C), (D) and (E), the staff proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126

Attorney for Licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: June 2, 1987 (TSC 87-31)

Description of amendment requests: The proposed technical specification change would add surveillance requirement 4.6.3.2.d to specifically address the containment isolation signal and valve actuation for the containment vacuum relief isolation valves. The current surveillance requirement 4.6.3.2 does not specifically address test requirements for the dedicated containment isolation logic for these valves.

Basis for proposed no significant hazards consideration determination:

The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

1. Is the probability of an occurrence or the consequences of an accident previously evaluated in the safety analysis report significantly increased?

No. The addition of the surveillance requirements to test the containment isolation signal for the containment vacuum relief isolation valves will not increase the probability or the consequences of an accident previously evaluated in the safety analysis report. The addition of specific surveillance requirements for this containment isolation feature will decrease the probability of failure of this isolation feature. The consequences of any previously analyzed accident remain unchanged or are reduced because of the increased reliability of this containment isolation feature.

2. Is the possibility for an accident of a new or different type than evaluated perviously in the safety analysis report created?

No. The addition of the surveillance requirement to test the containment isolation signal for the containment vacuum relief isolation valves will not create a new or different type of accident than previously evaluated in the safety analysis report. Testing will be done during cold shutdown or refueling when containment isolation capability is not required. No hardware changes are being made; therefore, no new failure modes are being introduced.

3. Is the margin of safety significantly reduced?

No. The addition of a specific surveillance requirement to test the containment isolation signal for the containment vacuum relief isolation valves will ensure that specific testing is performed on a periodic basis. The addition of the surveillance requirement will increase the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: June 10, 1987 (TSC 87-35)

Description of amendment requests: The proposed amendments would modify Technical Specification (TS) Table 3.4-1, "Reactor Coolant System Pressure Isolation Valves," to add requirements for two flow control valves (FCV-87-7 and FCV-87-8).

A TS change to delete Table 3.4-1 in its entirety was originally proposed in an application dated April 10, 1986. Tennessee Valley Authority (TVA) review of Generic Letter 87-06 indicated the need for this table to remain in the TS. The April 10, 1986 submittal was initially noticed in the **Federal Register** on July 16, 1986 (51 FR 25772).

The above submittal relating to the deletion of Table 3.4-1 is completely superseded by this June 10, 1987 application.

Basis for proposed no significant hazards consideration determination: The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

1. Is the probability of an occurrence or the consequences of an accident previously evaluated in the safety analysis report significantly increased?

No. The proposed amendment to the technical specifications changes Table 3.4-1, "Reactor Coolant System Pressure Isolation Valves," to include flow control valves FCV-87-7 and FCV-87-8. The omission of the subject valves from table 3.4-1 was an oversight. The subject valves currently undergo testing as pressure isolation valves as identified in Surveillance Instruction (SI)-166.11, "Upper Head Injection Check Valve Integrity." The proposed change will provide for the two valves to be subject to the limiting condition for operation for pressure isolation valves and the corresponding surveillance requirements (SRs). Thus, the proposed amendment will provide for increased administrative controls over the subject valves.

2. Is the possibility for an accident of a new or different type than evaluated previously in the safety analysis report created?

No. Flow control valves FCV-87-7 and FCV-87-8 are designed, installed, and maintained as reactor coolant system (RCS) pressure isolation valves. The proposed amendment does not involve a change in hardware capabilities or a modification in the operation of the plant.

3. Is the margin of safety significantly reduced?

No. The margin of safety has actually been increased. The proposed amendment will provide additional assurance that FCV-87-7 and FCV-87-8 will perform their intended function and provide for remedial action should it be determined that the valves are inoperable. Continued operability of these valves will ensure redundant isolation and system integrity are maintained.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: July 2, 1987 (TSC 87-26)

Description of amendment requests: The proposed amendments would revise Technical Specification (TS) Section 3/4.7.11, Fire Suppression Systems, to reflect changes in the minimum flow and pressure requirements for the High Pressure Fire Protection System (HPFPS).

Basis for proposed no significant hazards consideration determination: The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

As a result of the physical walkdown of the fire protection system at Sequoyah to ensure Appendix R compliance, it was necessary to modify the layout of the sprinkler system and to install additional piping to supply some hydraulically remote areas. These modifications affected the flow requirements and system resistance of the HPFPS. Consequently, the minimum flow and head requirements stated in the technical

specifications needed to be raised to ensure that the HPFPS capacity was adequate for meeting the most demanding safety-related fire condition.

1. Is the probability of an occurrence or the consequences of an accident previously evaluated in the safety analysis report significantly increased?

No. The probability of the occurrence of an accident is not increased. The function of the HPFPS is to minimize the consequences of onsite fires. This change will ensure that the capacity of the HPFPS is adequate for the most demanding safety-related fire condition.

2. Is the possibility for an accident of a new or different type than evaluated previously in the safety analysis report created?

No. The proposed change will not create a new or different type of accident. While the proposed change does raise the minimum acceptable flow and head requirements for the HPFPS pumps, these requirements do not exceed the design capabilities of the HPFPS.

3. Is the margin of safety significantly reduced?

No. The margin of safety is not changed. The hydraulic requirements of the HPFPS increased because of some modifications and additions to the sprinkler system. Consequently, the minimum technical specification requirements for the HPFPS pumps are being raised to ensure that the previously existing margin of safety is not reduced.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: September 17, 1987 (TS 87-33)

Description of amendment requests: The proposed changes to the Technical Specification (TS) would add a definition of Bypass Leakage Paths to the Auxiliary Building and amend table 3.6-1 to insert those penetrations fitting that definition. In addition, a few editorial changes (relisting definitions alphabetically, correcting a typographical error) would be made.

Basis for proposed no significant hazards consideration determination: The secondary containment is provided to mitigate the postulated consequences of hypothetical accidents by enveloping the primary containment and collecting and treating the fission product leakage from primary containment. The secondary containment consists of the annular volume (annulus) around the primary containment and the Auxiliary Building secondary containment enclosure boundary. During a postulated Design Basis Accident (DBA), leakage from the primary containment to the annulus may occur. This leakage would be treated by the emergency gas treatment system (EGTS).

It is also possible that, because of piping and valve arrangements, some leakage may bypass the annulus. This leakage from the primary containment that circumvents the annulus pressure boundary may escape directly into either the Auxiliary Building or the environment. Bypass leakage to the Auxiliary Building is defined as that leakage from primary containment that would possibly circumvent the annulus and escape to the Auxiliary Building during a postulated DBA. This leakage will be treated by the Auxiliary Building Gas Treatment System (ABGTS). The design of the Sequoyah plant precludes leakage to the environment.

With the proposed TS changes, the paths that encompass bypass leakage to the Auxiliary Building will all be considered in establishing conformance with containment leak rate acceptance limits.

The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendment would add a definition of "Bypass Leakage paths to the Auxiliary Building" to the technical specifications and update table 3.6-1 of LCO 3.6.1.2, "Containment Systems, Containment Leakage," to reflect both this definition and the as-built configuration of the plant. This proposed amendment does not involve a change in plant hardware, plant operating setpoints or limits, plant operating procedures, or an increase in potential radiological release to the environment as a result of a postulated design basis accident (DBA). Thus, the proposed technical specification amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. As previously stated, the proposed amendment does not involve a change in plant hardware, plant operating setpoints or limits, or plant operating procedures. Thus, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

No. Again, as previously stated, the proposed amendment does not involve a change in plant hardware, plant operating setpoints or limits, plant operating procedures, or an increase in potential radiological releases to the environment as a result of a postulated DBA. The proposed amendment would add a definition for the purpose of clarifying and delineating Bypass Leakage Paths to the Auxiliary Building as well as modifying table 3.6-1 to reflect the definition and the current plant configuration. Thus, the proposed amendment involves no reduction in margin of safety but rather, through clarification of terminology and correctly describing current plant configuration, provides for an increase in the margin of safety of the plant.

Additionally, the staff notes that the editorial changes are strictly administrative and therefore are encompassed by example (i) of the Commission's examples of amendments considered not likely to involve significant hazards considerations (51 FR 7751) and do not present a significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

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: October 9, 1987

Description of amendment request: The proposed amendment would revise the provisions in the Davis-Besse

Nuclear Power Station, Unit No. 1, Technical Specifications (TSs) relating to Surveillance Testing required to demonstrate operability of the emergency diesel-generators (EDGs) in accordance with Toledo Edison Company application dated October 9, 1987. Specifically, the proposed amendment would allow an extension of the due date from January 3, 1988, until March 31, 1988, for EDG 1-1 and from December 10, 1987, until March 20, 1988, for EDG 1-2 for performing the surveillances required by Specifications 4.8.1.1.2.d.1 and 4.8.1.1.2.d.3.(c). In addition, an editorial change would be made to Specification 4.8.1.1.2.d.3 to correctly refer to the safety features actuation system test signal vice the safety injection actuation test signal.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, 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 (10 CFR 50.92(c)(1)) because the EDGs are standby equipment which do not contribute to the occurrence of any accident, and the ability of the EDGs to function as required is not degraded by this change,

B. the change does not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because proper operation of the EDGs is assured by periodic surveillance, and no new failure modes are introduced, and

C. the change does not involve a significant reduction in a margin of safety because no accident analyses assumptions are changed, and the consequences of EDG failure are within the bounds previously analyzed.

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: Martin J. Virgilio.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: September 9, 1987.

Description of amendment request: The proposed amendment would delete the offsite organization chart (Figure 6.2-1) and the unit organizational chart (Figure 6.2-2) from the technical specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards considerations, using the Commission's standards:

"The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because deletion of the organization charts from the Technical Specifications does not affect plant operation. As in the past, the NRC will continue to be informed of organizational changes through other required controls. The Code of Federal Regulations, Title 10, Part 50.34(b)(6)(i) requires that the applicant's organizational structure be included in the Final Safety Analysis Report. Chapter 13 of the Final Safety Analysis Report provides a description of the organization and detailed organization charts. As required by 10 CFR 50.71(e), the company submits annual updates to the FSAR. Appendix B to 10CFR50 and 10CFR50.54(a)(3) govern changes to organization described in the Quality Assurance Program. Some of these organizational changes require prior NRC approval.

"Union Electric will continue its practice to inform the NRC of any future organizational changes affecting plant operation.

"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 altera tions of plant configuration or changes to setpoints or operating parameters are proposed.

"The proposed amendment does not involve significant reduction in a margin of safety. Through Union Electric's strong Quality Assurance Programs and its commitment to maintain only qualified personnel in positions of responsibility, it is assured that safety functions performed by the on-site and the corporate organizations will continue to be performed at a high level of competence."

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; does not involve a reduction in the required margin of safety. The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David L. Wigginton, Acting.

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: July 14, 1986, as superseded June 3, 1987

Description of amendment requests: The proposed amendments would revise Section 6 of the Surry Technical Specifications to reflect a Virginia Electric and Power Company (the licensee) reorganization in which the Quality Assurance Organization reports to the Senior Vice President - Engineering and Construction, rather than to the Senior Vice President - Power Operations. As the major emphasis of the licensee's nuclear program is presently on operations rather than construction, it is no longer appropriate that the Quality Assurance Organization report to Power Operations. This change is intended to enhance the independence of the Quality Assurance Organization. In addition, the proposed change would

correct the titles of several on-site and off-site managers and supervisors. Also, the Director-Nuclear Training position would be deleted.

This request supersedes the previous request for amendment dated July 14, 1986, noticed on August 13, 1986 (51 FR 29015).

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.

The licensee has evaluated the changes against the standards provided above and has determined that the changes would involve no significant hazards considerations because:

1. The changes would merely revise the reporting requirements of the Quality Assurance (QA) Organization in order to enhance its independence, and would also correct titles in the on-site and off-site organization charts. Thus, these changes do not change plant design or operation and do not increase the probability or consequences of an accident.

2. The licensee has determined that a new or different kind of accident from any accident previously evaluated will not be possible due to these changes. Realigning the QA organization with Engineering and Construction, revising supervisor or manager titles, or deleting the Director-Nuclear Training position does not create the possibility or a new or different kind of accident.

3. These changes do not involve a change in the basis for any Technical Specification or in the Updated Final Safety Analysis Report accident analysis. Therefore, these changes do not involve a significant reduction in a margin of safety.

The NRC staff has made a preliminary review of the licensee's analysis and agrees with the licensee's conclusions that the three standards in 10 CFR 50.92(c) are met for the proposed operating license amendments for the Surry Power Station.

Accordingly, the Commission proposes to determine that the requested changes to the Technical Specifications 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

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: May 14, 1987

Description of amendment requests: The proposed amendments would change Section 4.9, "Effluent Sampling and Radiation Monitoring System" of the Surry Units 1 and 2 Technical Specifications to make it consistent with NUREG-0472, "Radiological Effluent Technical Specifications for PWRs, Revision 3." Specifically, Table 4.9-4 has a reporting level of I-131 for water as 2 pCi/liter. The proposed amendments would keep the reporting level of I-131 for ground (drinking) water samples as 2 pCi/liter and change the reporting level of I-131 for surface (non-drinking) water samples to 20 pCi/liter. Also, Table 4.9-5 currently has a lower limit of detection of I-131 for water as 10 pCi/liter. The proposed amendments would change the lower limit of detection of I-131 for ground (drinking) water samples to 1 pCi/liter and keep the lower limit of detection of I-131 for surface (non-drinking) water samples as 10 pCi/liter. The amendments would also insert symbols that were inadvertently deleted on page TS 4.9-15 of the Surry Technical Specifications.

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.

The Virginia and Electric Power Company (the licensee) has evaluated the changes against the standards provided above and has determined that the changes would involve no significant hazards considerations because:

1. The proposed changes only involve the reporting and detection levels for environmental sampling of water during routine operation and as such do not involve or affect the probability or consequences of a previously evaluated accident. Thus, the proposed changes do not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed changes will not modify or alter an existing plant system; only the reporting and detection levels for environmental sampling of water during routine operation would be changed. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes are requested in order to make Section 4.9 of Surry's Technical Specifications consistent with NUREG-0472, "Radioactive Effluent Technical Specifications for PWRs, Revision 3." These changes only affect environmental sampling criteria; they do not affect, nor are they related to, plant operational safety. Thus, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has made a preliminary review of the licensee's analyses of the proposed changes 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

Wolf Creek Nuclear Operating Corporation, Kansas Gas and Electric Company, Kansas City Power & Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: September 17, 1987

Description of amendment request: This amendment request revises Technical Specification Figure 6.2-1, to reflect the removal of the Manager Nuclear Operations Support position,

the change of the name of the Procurement and Materials Management Division to the Purchasing and Material Service Division, and the deletion of the "Chairman of the Board" and "Vice Chairman of the Board" designations from the organizational box for the "Board of Directors" to eliminate unnecessary detail in the organization chart. In addition, the newly renamed Manager of Purchasing and Material Services will report directly to the President and Chief Executive Officer rather than to the Vice President Nuclear Operations.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards determination:

This amendment request revises Wolf Creek Generating Station (WCGS), Unit No. 1, Technical Specification Figure 6.2-1, which addresses the Operating Corporation Organization.

The transfer of the various functions of the Nuclear Operations Support division to other divisions within the Vice President Nuclear Operations organization will increases organizational effectiveness by establishing managerial control at the plant site. This change is, therefore, an organizational enhancement and has no effect on plant equipment or the technical qualifications of plant personnel.

The change in reporting relationship for the Purchasing & Material Services division (formerly the Procurement and Materials Management division) increases organizational effectiveness by revising the previous reporting relationship. The title revision is only a change in nomenclature and has no effect on job responsibilities.

The removal of the wording "Chairman of the Board" and "Vice Chairman of the Board" removes unnecessary detail from Figure 6.2-1. This change has no effect to overall organizational commitments or to job responsibilities.

The proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated. These changes involve organizational modifications and enhancements and, as such, have no effect on plant equipment or the technical qualifications of plant personnel.

The proposed revisions do not create the possibility of a new or different kind of accident from any accident previously evaluated. These changes do not affect the qualifications of personnel who operate Wolf Creek Generating Station, nor do they involve any change to installed plant systems or the overall operating philosophy of Wolf Creek Generating Station.

The proposed revisions do not involve a significant reduction in a margin of safety. These changes do not involve any changes in overall organizational commitments. Organizational modifications alone do not reduce any margin of safety.

Based on the above analysis and utilizing the guidance provided by the Commission, it has been concluded that the proposed revisions to the Wolf Creek Generating Station Technical Specifications do not involve a significant hazards consideration.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing examples of Amendments that are not likely to involve Significant Hazards Considerations (51 FR 7751). Among those examples are, "A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the Technical Specifications, corrections of an error, or a change in nomenclature" and "A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications...". The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka Kansas

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this biweekly notice. They are repeated here because the biweekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

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: September 25, 1987, as superseded October 7, 1987

Brief description of amendment requests: The amendments would revise Section 4.7, "Main Steam Line Trip Valves" of the Surry Units 1 and 2 Technical Specifications by removing the partial-closure test specified in Sections 4.7A and 4.7B and replacing it with a more rigorous full-closure test to be performed at each startup. The proposed amendments would also revise the acceptance criteria for the main steam trip valve closure time testing. Table 4.1-2A would also be revised to be consistent with TS 4.7.

Date of publication of individual notice in the **Federal Register:** October 16, 1987 (52 FR 38547)

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these

amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arizona Public Service Company, et al, Docket Nos. STN 50-528 and STN 50-529, Palo Verde Nuclear Generating Station, Units 1 and 2, Maricopa County, Arizona

Date of application for amendments: January 23, 1987, as supplemented by letters dated April 24, June 8, July 17 and October 1, 1987

Brief description of amendments: The amendments revise the technical specifications by (1) changing Specification 3.1.1.1 and 3.1.1.2 and related Tables 2.2-1 and 3.3-1 concerning shutdown margin requirements for the various modes of operation; (2) revising Specification 3.1.2.3 and related tables in Specification 3.1.2.7 concerning the number of charging pumps in operation while in Mode 5; (3) adding a new Special Test Exception to allow operability testing of the control element drive mechanism system during pre-startup testing without the need for alternating between specifications, and (4) revising several other portions of the technical specifications representing related administrative changes.

Date of issuance: October 9, 1987

Effective date: October 9, 1987

Amendment Nos.: 23 and 13

Facility Operating License Nos. NPF-41 and NPF-51: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register:** August 12, 1987 (52 FR 29910). The requested amendment for Palo Verde Unit 3 has been deferred pursuant to the licensees' letter dated October 1, 1987.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 9, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004

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: June 29, 1987, as supplemented by letters dated June 29, July 13, August 20 (two letters), September 4 and October 1, 1987.

Brief description of amendments: The amendment revised several portions of the Technical Specifications to incorporate changes in support of Cycle 2 operation.

Date of issuance: October 21, 1987

Effective date: October 21, 1987

Amendment No.: 24

Facility Operating License No. NPF-41: Amendment changed the Technical Specifications.

Date of initial notice in **Federal Register:** August 26, 1987 (52 FR 32189) The letters of September 4 and October 1, 1987 provided supplemental information which did not change the initial proposed determination of no significant hazards. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 21, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: July 30, 1987

Brief description of amendment: The amendment revises the surveillance interval for diesel generator inspection from once every 18 months to once every refueling outage. It also corrects reference to a staff Safety Evaluation Report.

Date of issuance: October 21, 1987

Effective date: October 21, 1987

Amendment No.: 8

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications and Attachment 2 of the License.

Date of initial notice in **Federal Register:** September 9, 1987 (52 FR 34000). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 21, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Commonwealth Edison Company, Docket Nos. 50-237 and 249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois

Date of application for amendments: May 14, 1986

Brief description of amendments: The amendments changed the Technical Specifications to impose 4-KV cross-tie operability requirements.

Date of issuance: October 9, 1987

Effective date: October 9, 1987

Amendment Nos.: 96 and 91

Provisional Operating License No. DPR-19 and Facility Operating License No. DPR-25.: The amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** November 19, 1986 (51 FR 41848). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 9, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Commonwealth Edison Company, Docket No. 50-373, La Salle County Station, Unit No. 1, La Salle County, Illinois

Date of application for amendment: June 16, 1987

Brief description of amendment: This one-time-only amendment would allow performance of the snubber surveillance for LaSalle Unit 1 to correspond to the scheduled second refueling.

Date of issuance: October 19, 1987

Effective date: October 19, 1987

Amendments No.: 51

Facility Operating License No. NPF-11: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 9, 1987 (52 FR 34001 and 34002). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: May 20, 1987

Brief description of amendment: The amendment revises the Technical Specifications relating to the limiting conditions for operation of the Auxiliary Feedwater Pumps to be consistent with the Standard Technical Specifications. The change adds limiting conditions for operation for up to three Auxiliary Feedwater Pumps that may be in an inoperable condition.

Date of issuance: October 14, 1987

Effective date: October 14, 1987

Amendment No.: 124

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 9, 1987 (52 FR 34002) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 14, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: March 24, 1987

Brief description of amendment: The amendment revises the Technical Specifications to change the flow requirement for the Auxiliary Feedwater System in its limiting conditions for operation. The minimum required pumping capability of the auxiliary feedwater pumps is being revised from 400 gpm to 300 gpm.

Date of issuance: October 15, 1987

Effective date: October 15, 1987

Amendment No.: 125

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 17, 1987 (52 FR 23097) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 15, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: May 28, 1987

Brief description of amendment: This amendment removes the Tables of specific piping snubbers from the Technical Specifications, deletes the numerical value of the acceptance criterion for drag force for mechanical snubbers, and adds the functional testing requirements for snubbers of rated capacity greater than 50,000 pounds.

Date of issuance: October 20, 1987

Effective date: October 20, 1987

Amendment No.: 107

Provisional Operating License No. DPR-20. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 12, 1987 (52 FR 29913). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 20, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: September 29, 1986, as supplemented March 19 and April 9, 1987.

Brief description of amendment: The amendment makes several changes to the Administrative Controls Section of the Technical Specifications. Specifically, the changes are intended to clarify existing requirements, bring closer agreement to the terminology of the NRC Standard Technical Specifications, incorporate overtime work limitations stated in NRC Generic Letter 82-12, and change the titles of some of the staffing positions and modify the minimum shift crew to meet the requirements of 10 CFR 50.54(m).

Date of issuance: October 21, 1987

Effective date: October 21, 1987

Amendment No. 108

Provisional Operating License No. DPR-20. The amendment revised the license and Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1986 (51 FR 47077). Since the date of the initial notice, the licensee provided supplemental information dated March 19 and April 9, 1987. This supplemental information did not change the initial determination and thus did not warrant renoticing. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 21, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Detroit Edison Company Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: January 7, 1987, as supplemented March 6, 1987, and May 20, 1987

Brief description of amendment: This amendment revises Section 6 of the Plant Technical Specifications (Appendix A to Facility Operating License No. NPF-43) to change the titles of various organizations to more accurately reflect the current Fermi-2 plant organization, and to strengthen the responsibilities of the licensee's Onsite Review Organization (OSRO).

The licensee's March 6, 1987, letter provided the current OSRO composition reflecting organizational changes but did not change any functional responsibility. The licensee's May 20, 1987, letter supplemented the January 7, 1987, change request to withdraw the initial request to delete Technical Specification Figure 6.2.1-1, "Offsite Organization" and Figure 6.2.2-1, "Unit Organization", and provided those figures, updated to reflect the organization title changes described in the January 7, 1987 letter.

Date of issuance: October 22, 1987

Effective date: October 22, 1987

Amendment No.: 11

Facility Operating License No. NPF-43. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 28, 1987 (52 FR 2880) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 22, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Public Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Power Company, Docket Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: July 29, 1985

Brief description of amendments: The amendments revise the Technical Specifications (TSs) to delete those TSs related to the Reactor Vessel Material Surveillance Program.

Date of Issuance: October 19, 1987

Effective date: October 19, 1987

Amendment Nos.: 162, 162, and 159

Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 23, 1985 (50 FR 43024) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 19, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: August 22, 1985, as supplemented on February 11, 1986.

Brief description of amendments: The amendments revise the TSs to correct a typographical error, delete an expired footnote, update the station organization by adding the Station Services and Integrated Scheduling areas and provide clarity and consistency through different wording.

Date of Issuance: October 19, 1987

Effective date: October 19, 1987

Amendment Nos.: 163, 163, and 160

Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 23, 1985 (50 FR 43026) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 19, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: February 5, 1987

Brief description of amendment: Technical Specification 3.4.1.2.2 was changed to permit plant operation with a minimum of two operable Main Steam Safety Valves per steam generator when the reactor has been subcritical for at least one hour and the reactor is between hot shutdown and 5% power.

Date of Issuance: October 15, 1987

Effective date: October 15, 1987

Amendment No.: 133

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 22, 1987 (52 FR 13337) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated October 15, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania, 17126

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: July 1, 1987

Brief description of amendment: The amendment changes the Technical Specifications for Beaver Valley Unit No. 1 to provide corrections regarding control room habitability requirements.

Date of issuance: October 15, 1987

Effective date: October 15, 1987

Amendment No. 116

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 29, 1987 (52 FR 28376) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 15, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of application for amendment: August 14, 1987. Plant-specific information was provided in a report dated July 31, 1987 and supplemented September 18, 1987.

Brief description of amendment: This amendment modifies the Technical Specifications for Cycle 2 fuel reload and operation.

Date of issuance: October 19, 1987

Effective date: October 19, 1987

Amendment No.: 12

Facility Operating License No. NPF-47. This amendment revised the Technical Specifications and/or License.

Date of initial notice in **Federal Register:** September 9, 1987 (52 FR 34010). The licensee's September 18, 1987 submittal clarified the description of the new fuel for Cycle 2 and did not alter the NRC staff's determination of no significant hazards as published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Long Island Lighting Company, Docket No. 50-322, Shoreham Nuclear Power Station, Suffolk County, New York

Date of application for amendment: January 12, 1987

Brief description of amendment: This amendment changed the Technical Specifications with regard to the figures showing the locations of the two meteorological towers. This amendment also included changes to the TSs to correctly identify the title of the Health Physics Engineer.

Date of issuance: October 19, 1987

Effective date: October 19, 1987

Amendment No.: 8

Facility Operating License No. NPF-36. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1987 (52 FR 9573) he Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 23212.

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: July 6, 1987 as supplemented September 14, 1987

Brief description of amendment: The application dated July 6, 1987 requested three changes to the Technical Specifications: (1) an increase in the setpoint for the pump relief valve in a surveillance requirement for the standby liquid control room (SLCS); (2) revision of certain action statements to allow entry into operational conditions, provided the requirements in the action statements are met; and (3) deletion of the requirements for certain isolation valves and associated instrumentation to be operable in refueling shutdowns. This amendment provides the requested

increase in the setpoint for the pump relief valve in the SLCS. The other two requested changes will be addressed separately.

Date of issuance: September 30, 1987

Effective date: September 30, 1987

Amendment No.: 36

Facility Operating License No. NPF-29. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 12, 1987 (52 FR 29920) The September 14, 1987 letter provided supplemental information which did not change the staff's initial determination of no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: October 3, 1986, as revised December 8, 1986

Brief description of amendment: The amendment revised the wording of Technical Specifications to reflect the existence of a third source of offsite power for supplying auxiliary electrical power.

Date of issuance: October 16, 1987

Effective date: October 16, 1987

Amendment No.: 51

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 15, 1987 (52 FR 26580 at 26590). The December 8, 1986 submittal revised a previously submitted Technical Specification page to incorporate an improvement in the wording originally submitted. The submittal was clarifying in nature and did not change the initial determination published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 16, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: June 19, 1987

Brief description of amendment: This amendment changed the Susquehanna Steam Electric Station (SSES), Unit 1 Technical Specifications in support of the fuel reload for Cycle 4 operation.

Date of issuance: October 9, 1987

Effective date: Prior to startup for Cycle 4 operation.

Amendment No.: 72

Facility Operating License No. NPF-14. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 15, 1987 (52 FR 26593) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 9, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: April 29, 1987.

Brief description of amendment: The amendment revises Section 6, Administrative Controls, of the Trojan Technical Specifications regarding the review and approval of temporary changes to procedures, and corrects typographical errors.

Date of issuance: October 2, 1987

Effective date: October 2, 1987

Amendment No.: 135

Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 29, 1987 (52 FR 28384) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: March 10, 1987, and supplemented by letters dated June 24, 1987, and July 9, 1987.

Brief description of amendments: The amendments changed the Technical Specifications regarding boron concentration in the Refueling Water Storage Tanks and the Accumulators. The supplemental information clarified the language of the original submittal and did not contain substantive changes.

Date of issuance: October 16, 1987

Effective date: October 16, 1987

Amendment Nos.: 83 and 55

Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 15, 1987 (52 FR 26596) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 16, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: March 26, 1987

Brief description of amendment: The amendment revises the radiological environmental monitoring program.

Date of issuance: October 23, 1987

Effective date: October 23, 1987

Amendment No.: 68

Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** July 29, 1987 (52 FR 28387) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: October 22, 1985 (TS 65)

Brief description of amendments: The amendments change the Technical Specifications to increase the setpoints of the radiation monitors in the spent fuel pool areas and to clarify the enrichment limits of fuel stored in the

spent fuel pool and new fuel storage areas.

Date of issuance: October 19, 1987

Effective date: October 19, 1987

Amendment Nos.: 60, 52

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 27, 1986 (51 FR 30581) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: May 15, 1987, clarified on June 16, 1987. (TS 87-29).

Brief description of amendments: The amendments revise Technical Specification Table 3.8-2 (Units 1 and 2) to delete references to active motor-operated valves which will have their thermal overload protection device bypassed.

Date of issuance: October 23, 1987

Effective date: October 23, 1987

Amendment Nos.: 61, 53

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: March 31, 1987 as supplemented by letters dated April 15, June 5, June 18, July 16, July 28, August 7, August 13, August 31, September 9, and October 6, 1987.

Brief description of amendment: The amendment modifies the technical specifications to support a transition from a Westinghouse 17 x 17 low par sitic fuel assembly and optimized fuel assembly fueled core to a Westinghouse 17 x 17 Vantage 5 (V-5) fuel assembly fueled core.

Date of issuance: October 9, 1987

Effective date: October 9, 1987

Amendment No.: 28

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 3, 1987 (52 FR 20804). Renoticed August 12, 1987 (52 FR 29933). The August 7, August 13, August 31 September 9, and October 6, 1987 submittals contained no substantive changes and were only minor changes to, and clarification of, the original application. It was consistent with the staff's original findings. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 9, 1987 and an Environmental Assessment dated October 2, 1987 (52 FR 37681).

No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: June 18, 1987

Brief description of amendment: The amendment revised the definition of the fully withdrawn shutdown and control rod position from 228 steps to 225 steps or higher.

Date of issuance: October 14, 1987

Effective date: October 14, 1987

Amendment No.: 29

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 29, 1987 (52 FR 28369 at 28389) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 14, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Virginia Electric and Power Company, et al., Docket No. 50-339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of application for amendment: May 27, 1987 (partial response)

Brief description of amendment: The amendment revises the NA-2 TS 3/4.6.3, Table 3.6-1 to correct an inconsistency between the licensee's response to NUREG-0737 dated December 10, 1980 and the NA-2 TS for specifying the containment isolation signal to be Phase B instead of Phase A.

Date of issuance: October 22, 1987

Effective date: October 22, 1987

Amendment No.: 82

Facility Operating License No. NPF 7. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 15, 1987 (52 FR 26599) he Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 22, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Wolf Creek Nuclear Operating Corporation, Kansas Gas and Electric Company, Kansas City Power & Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 19, 1987.

Brief description of amendment: The amendment revises Wolf Creek Generating Station (WCGS) Technical Specification 3/4.3.3, Radiation Monitoring for Plant Operation. The proposed revision changes the required number of minimum channels Operable for Table 3.3-6 Functional Unit 1.a., Containment Atmosphere - Gaseous Radioactivity High (GT-RE 31 & 32). The requested revision also modifies Actions 27 and 30 of Table 3.3-6 to permit an allowed outage time of 72 hours with the number of OPERABLE channels one less than the minimum channels Operable requirement.

Date of issuance: October 13, 1987.

Effective date: October 13, 1987.

Amendment No.: 10

Facility Operating License No. NPF-42. Amendment revised the Technica Specifications.

Date of initial notice in **Federal Register:** July 15, 1987 (52 FR 26604). he Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 13, 1987.

No significant hazards consideratio comments received: No.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka Kansas

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By December 4, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to

intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stav the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Project Director):* petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: September 15, 1987 (NRC-87-0164) as supplemented October 9, 1987 (NRC-87-0178)

Brief description of amendment: This amendment revises Table 3.6.3-1 of Technical Specification 3/4.6.3, which specifies the Type C leakage test requirements for containment isolation valves required to maintain containment isolation following an accident, to correct discrepancies to make Table 3.6.3-1 isolation valve leak test requirements consistent with the design basis analysis detailed in the Fermi-2 Updated Final Safety Analysis Report, the approved Inservice Testing Program for Pumps and Valves, and the approved Surveillance Test Program.

Date of Issuance: October 9, 1987

Effective date: October 9, 1987

Amendment No.: 10

Facility Operating License No. NPF-43: Amendment revises the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. 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 October 9, 1987.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

Local Public Document Room location: Monroe County Public Library System, 3700 South Custer Road, Monroe, Michigan 48161.

NRC Project Director: Martin J. Virgilio

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application of amendment: September 4, 1987, as supplemented September 11 and 15, 1987

Brief description of amendment: The amendment temporarily added a special tube inspection region associated with the batwings of the steam generators.

Date of Issuance: October 15, 1987

Effective Date: October 15, 1987

Amendment No.: 24

Facility Operating License No. NPF-16: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes. A notice requesting public comments by October 2, 1987 was published in the **Federal Register** on September 17, 1987 (52 FR 35161). Comments received: No.

The licensee provided additional information by letter dated September 15, 1987. The additional information did not alter the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment, consultation with the State and the final determination of no significant hazards consideration are contained in a Safety Evaluation dated October 15, 1987.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

NRC Project Director: Herbert N. Berkow

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of application for amendment: October 13, 1987, as supplemented October 15, 1987

Brief description of amendment: The amendment revised the Technical Specification to add notes to Tables 3.3.7.5-1, Accident Monitoring Instrumentation, Instrument 10 (Safety/Relief Valve Position Indicators) and 4.3.7.5-1, Accident Monitoring Instrumentation Surveillance Requirements, to allow a single acoustic monitor to be inoperable until the plant shuts down for its next scheduled refueling outage or until the first forced outage of sufficient duration to effect repair, whichever occurs first.

Date of issuance: October 16, 1987

Effective date: October 16, 1987

Amendment No.: 47

Facility Operating License No. NPF-21: Amendment revised the Technical Specification.

Public comments requested as to proposed no significants hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with the State of Washington and final determination of no significant hazards consideration are contained in a Safety Evaluation dated October 16, 1987.

Attorney for licensee: Nicholas Reynolds, Esquire, Bishop, Cook, Purcell and Reynolds, 1200 Seventh Street, NW., Washington, DC 20036.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

NRC Project Director: George W. Knighton

Dated at Bethesda, Maryland this 28th day of October, 1987.

For the Nuclear Regulatory Commission

Dennis M. Crutchfield,

Director, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation

[Doc. 87-25446 Filed 11-3-87; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 50-344]

Issuance of Environmental Assessment and Finding of No Significant Impact; Portland General Electric Co., et al.

The United States Nuclear Regulatory Commission (the Commission) is considering the issuance of exemptions from specific requirements in Appendix R to 10 CFR Part 50 to Portland General Electric Company, et. al. (PGE, the licensee) for the Trojan Nuclear Plant located in Columbia County, Oregon.

Environmental Assessment

Identification of the Proposed Action: The exemptions are related to section III.G.2 of Appendix R to 10 CFR Part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979." Section III.G of Appendix R requires fire protection for equipment important to safe shutdown. Such fire protection is achieved by various combinations of fire barriers, fire suppression systems, fire detectors, and separation of safety trains (III.G.2) or alternate safe shutdown equipment independent of the fire area (III.G.3). The objective of this protection is to assure that one train of equipment needed for hot shutdown would be undamaged by fire, and that systems needed for cold shutdown could be repaired within 72 hours (III.G.1).

The Need for the Proposed Action: Because it is not possible to predict the specific conditions under which fire may occur and propagate, the design basis protective features are specific in the rule rather than the design basis fire.

Plant-specific features may require protection different from the measures specified in sections III.G. In such cases, the licensee must demonstrate, by means of a detailed fire hazards analysis, that existing protection in conjunction with proposed modifications will provide a level of safety equivalent to the technical requirements of section III.G of Appendix R.

Environmental Impacts of the Proposed Action: The proposed exemptions provide a level of safety equivalent to the technical requirements of section III.G of Appendix R. These exemptions will not change the types, or allow an increase in the amounts, of effluents that may be released offsite. Furthermore, these exemptions will not result in an increase in individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed Appendix R exemptions.

With regard to political nonradiological impacts, the proposed exemptions involve features located entirely within the restricted areas as defined in 10 CFR Part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed Appendix R exemptions.

Alternative Use of Resource: This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Trojan Nuclear Plant.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's request and did consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed Appendix R exemptions.

Based on the foregoing environmental assessment of the proposed exemptions relative to the requirements of Appendix R to 10 CFR Part 50, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the letters requesting exemptions from Appendix R of 10 CFR Part 50, dated July 31, 1984, May 31, 1985, October 16, and November 17, 1986, and May 8, 1987, which 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 Trojan Nuclear Plant located at the Portland State University Library, 731 SW. Harrison Street, Portland, Oregon 97207.

Dated at Bethesda, Maryland, this 27th day of October, 1987.

For the Nuclear Regulatory Commission.

George W. Knighton,

Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 87-25554 Filed 11-3-87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-16091/File No. 812-6787]

Application for Exemption; Crown America Life Insurance Co.

October 28, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Crown America Life Insurance Company ("Crown America"); Crown America Variable Annuity Separate Account ("VA Separate Account"); and Crown America Variable Life Separate Account ("VLI Separate Account").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 9(a), 13(a), 15(a), 15(b), 26(a)(2) and 27(c)(2) of the Act and Rule 6e-2(b)(15) thereunder.

Summary of Application: Applicants seek an order to permit single premium variable life insurance policies currently being issued through the VLI Separate Account and any other single or scheduled premium variable life insurance policies which may be issued through other separate accounts to be established in the future by Crown America and its affiliates to purchase securities from a fund offering its shares to both variable annuity and variable life insurance separate accounts and to permit the VA Separate Account to assess a 1.25% charge for mortality and expense risks.

Filing Date: July 9, 1987, with an amendment on October 13, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on November 23, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notifications of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Crown America Life Insurance

Company, 120 Bloor Street E., Toronto, Canada M4W 1B8.

FOR FURTHER INFORMATION CONTACT: Lewis B. Reich, Special Counsel (202) 272-2061.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800 231-3282 (in Maryland (301) 253-4300)).

Applicants' Representations and Statements

1. Section 9(a) of the Act makes it unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in sections 9(a) (1) or (2). Rules 6e-2(b)(15) (i) and (ii) provide exemptions from section 9(a) (1) or (2). Rules 6e-2(b)(15) (i) and (ii) provide exemptions from section 9(a) under certain circumstances, subject to limitations on mixed funding. Those exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying management company.

2. The partial relief granted in Rule 6e-2(b)(15) from the requirements of section 9 in effect limits the amount of monitoring necessary to ensure compliance with section 9 to that which is appropriate in light of the policy and purposes of section 9. Applicants state that the Rule recognizes that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the Act to apply the provisions of section 9(a) to the thousands of individuals in a large insurance company complex, most of whom will have no involvement in matters pertaining to investment companies in that organization. Applicants argue that it would serve no regulatory purpose in extending the monitoring requirements because of mixed funding. Applicants state that, on the other hand, the increased monitoring costs would reduce the net rates of return realized by contract owners.

3. The language of Rule 6e-2(b)(15)(iii) assumes the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. Pass-through voting privileges will be provided with respect to all variable contract owners.

4. Rule 6e-2(b)(15)(iii) provides exemption from the pass-through voting requirement with respect to several significant matters, assuming the limitations on mixed funding are observed.

5. Applicants assert that Rule 6e-2 recognizes that a variable life insurance contract is an insurance contract, has important elements unique to insurance contracts, and is subject to extensive state regulation of insurance. Applicants assert that in adopting Rule 6e-2(b)(15)(iii), the Commission expressly recognized that state insurance regulators have authority, pursuant to state insurance laws or regulations, to disapprove or require changes in investment policies, investment advisers or principal underwriters. The Application quotes Release No. IC-9104 (Dec. 30, 1975, proposing Rule 6e-2) for the proposition that the Commission deemed such exemption necessary "to assure the solvency of the life insurer and performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposals reasonably could be expected to increase the risks undertaken by the life insurer."

6. Applicants also represent that state insurance regulators have much the same authority with respect to variable annuity separate accounts as they have with respect to variable life insurance separate accounts, that insurers generally assume both mortality and expense risks under variable annuity contracts, and that variable annuity contracts pose some of the same kinds of risks to insurers as variable life insurance contracts.

7. Applicants believe that the prohibitions on mixed funding might reflect some concern with possible divergent interests among different classes of investors because when Rule 6e-2 was adopted, variable annuity separate accounts could (and did) invest in mutual funds whose shares were also offered to the general public, and therefore, at the time of the adoption of Rule 6e-2, the Commission staff contemplated underlying funds with public shareholders, as well as with variable life insurance separate account shareholders.

8. According to the Application, however, for reasons unrelated to the Act, Internal Revenue Service Ruling 81-225 (Sept. 25, 1981) effectively deprived variable annuities funded by publicly available mutual funds of their tax-benefited status and the Tax Reform Act of 1984 has codified the prohibition against the use of publicly available mutual funds as an investment medium for variable contracts (including variable life contracts). Consequently, there will be no public shareholders of the Fund.

9. Applicants represent that the right under Rule 6e-2(b)(15) of the insurance company to disregard contract owners, voting instructions is not inconsistent with mixed funding of different insurance products. The Applicants argue that it is necessary unlikely that insurance regulators would find an investment policy, principal underwriter, or investment adviser inappropriate for one insurance product, but not for another. The Application points out that the potential for disagreement is limited by the requirement in Rule 6e-2 that the insurance company's disregard of voting instructions be reasonable and based on specific good faith determinations.

10. The Application asserts that there is no reason why the investment policies of a Series would or should be materially different from what they would or should be if such Series funded only variable annuity contracts or variable life insurance policies, whether flexible premium or scheduled premium policies.

11. In particular, Applicants state that even the "minimum death benefit" guarantee under certain variable life insurance contracts will lead to different investment policies for different types of variable contracts for several reasons: first, the minimum death benefit guarantee is specifically provided for by particular charges, and is always supported by general account reserves as required by state insurance law; second, certain variable annuity contracts also have minimum death benefit guarantees, and to the extent that the degree of risk may differ as between variable annuity contracts and variable life insurance policies, the differing insurance charges imposed, in effect, adjust any such differences and equalize the insurers, exposure in either case; third, the sale of and persistency of all variable insurance products depends on satisfactory investment performance, which provides an incentive for the insurer to optimize investment performance; fourth, under existing statutes and regulations an insurance company and its affiliates can offer a variety of variable annuity and life insurance contracts, some with death benefit guarantees of different types and significance (and degree of risk for the insurer), some without death benefit guarantees, all funded by a single mutual fund.

12. In addition, Applicants argue that no one investment strategy can be identified as appropriate to a particular insurance product. Applicants point out that each pool of variable annuity and variable life insurance contract owners is composed of individuals of diverse

financial status, age, insurance and investment goals and argue that those diversities are of greater significance than any differences in insurance products and that a fund supporting even one type of insurance must accommodate those diverse factors in order to attract and retain purchasers. Permitting mixed funding will facilitate the establishment of additional portfolios serving diverse goals. The Applicants also state that the broader base of contract owners can be expected to provide economic justification for the creation of additional portfolios with a greater variety of investment objectives and policies.

13. Applicant has consented to the following conditions: a. A majority of the Board of Directors of the Fund shall consist of persons who are not "interested person" of the Fund, as defined by section 2(a)(19) of the Act and the Rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any director or directors, then the operation of this condition shall be suspended (a) for a period of 45 days if the vacancy or vacancies may be filled by the Board of Directors; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

b. The Fund will comply with all provisions of the Act requiring voting by shareholders, and in particular the Fund will either provide for annual meetings (except insofar as the Commission may interpret section 16 not to require such meetings), or comply with section 16(c) of the Act (although the Fund is not one of the trusts described in section 16(c) of the Act) as well as with sections 16(a) and, if and when applicable, 16(b). Further, the Fund will act in accordance with the Commission's interpretation of the requirements of section 16(a) and, if and when applicable, 16(b). Further, the Fund will act in accordance with the Commission may promulgate with respect thereto.

c. The Board of Directors of the Fund will monitor the Fund and consider whether, from the standpoint of variable annuity or variable life insurance policyowners, annuitants, participants, or beneficiaries, continued investment by variable annuity separate accounts in the same investment company or Series utilized by variable life insurance separate accounts would create an irreconcilable material conflict. An irreconcilable material conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any Series are being managed; (e) a difference in voting instructions given by variable annuity policyowners and variable life insurance policyowners; or (f) a decision by an insurer to disregard the voting instructions of policyowners.

d. Crown America and any affiliated insurance companies whose separate accounts invest in the Fund, and the investment adviser of the Fund, shall monitor the Fund and shall promptly provide the Board of Directors of the Fund with information regarding any possible irreconcilable material conflict and all other information reasonably necessary for the board of Directors of the Fund to consider the matters set forth in condition c above.

e. If it is determined by a majority of the Board of Directors of the Fund, or a majority of its disinterested directors, or by the issuer of any variable annuity policies or variable life insurance policies investing in the Fund, that a material irreconcilable conflict exists, the relevant insurance companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested directors), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (1) Withdrawing the assets allocable to some or all of the separate accounts from the Fund or any Series and reinvesting such assets in a different investment medium, including another Series of the Fund, or submitting the question whether such segregation should be implemented to a vote of all affected policyowners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, owners of annuity policies, owners of life insurance policies) that vote in favor of such segregation, or offering to the affected policyowners the option of making such a change; and (2) establishing a new registered investment company or managed separate account.

For purposes of this condition e, the Board shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Fund or the Adviser be required to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of policyowners materially adversely affected by the irreconcilable material conflict.

f. All prospectuses for the Fund shall disclose (1) That the Fund may be used to fund both variable annuity and variable life insurance policies, (2) that this may conceivably in the future be disadvantageous for the owners of either, and (3) that the Fund's Board of Directors intends to monitor events to identify any irreconcilable material conflict and determine what action, if any, should be taken in response thereto.

g. If and to the extent that Rule 6e-2 is amended, to provide exemptive relief from any provision of the Act or the rules promulgated thereunder with respect to mixed funding on terms and conditions materially different from any exemptions granted in the order requested in this Application, then the Fund and/or Crown America and its affiliated insurance companies, as appropriate, shall take such steps as may be necessary to comply with Rule 6e-2, as amended, to the extent such rules is applicable.

h. Any action taken in accordance with this exemption and the reasons therefore shall be disclosed in the proxy statement for the next meeting of VLI Policyowners.

14. The VA Separate Account was established in connection with the proposed issuance of flexible premium variable deferred annuity policies ("VA Policies").

15. The VA Separate Account will invest in shares of the Crown America Series Fund, Inc. ("Fund"). The Fund, a diversified, open-end management investment company, has seven Series, four of which are available to VA Policyowners: the Money Market Series, the Capital Growth Series; the Bond Income Series; and the Managed Series. The VA Separate Account has four Sub-Accounts, each of which invests solely in a specific corresponding Series of the Fund.

16. Crown America charges the Sub-Accounts of the Separate Account for the mortality and expense risks Crown America assumes. The mortality risk borne by Crown America arises from its obligation to make income payments regardless of how long all annuitants or any individual annuitant may live; and the expense risk is that the deductions for surrender charges, transfer charges and administrative costs under the VA

Policies may be insufficient to cover the actual future costs incurred by Crown America for provision the various VA Policy administrative services.

17. The mortality and expense risk charge of 1.25% is a reasonable charge to compensate Crown America for the risk that annuitants under the VA Policies will live longer as a group than has been anticipated in setting the annuity rates guaranteed in the VA Policies; for the risk that administrative expenses will be greater than amounts derived from the administrative charge; and for the risk that the amounts realized from the surrender charge will be insufficient to cover actual distribution expenses. Of that amount, approximately 0.85% is allocated to cover the mortality risks, and approximately 0.40% is allocated to cover the expense risks.

18. Crown America represent that the charge of 1.25% for mortality and expense risks is within the range of industry practice with respect to comparable annuity products. This representation is based upon Crown America's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees, and guaranteed annuity rates. Crown America will maintain at its Executive Office, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

19. Crown America has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the VA Separate Account and the Policyowners. The basis for that conclusion is set forth in a memorandum which will be maintained by Crown America at its Executive Office and will be available to the Commission.

20. Crown America also represents that the VA Separate Account will only invest in management investment companies which undertake, in the event such company adopts a plan under Rule 12b-1 to finance distribution expense, to have a board of directors (or trustees), a majority of whom are not interested persons of the company, approve any such plan under Rule 12b-1.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25510 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16090; File No. 812-6698]

Application for Exemption; Dreyfus Variable Life Investment Fund

October 28, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Dreyfus Variable Life Investment Fund ("Fund" or "Applicant").

Relevant 1940 Act Sections: Exemption requested under section 6(c) of the 1940 Act from sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

Summary of Application: Applicant seeks an order to the extent necessary to permit shares of the Fund to be sold to and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies.

Filing Date: April 29, 1987, with an amendment thereto on September 25, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on November 23, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notifications of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Dreyfus Variable Life Investment Fund, 885 Third Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Denise M. Furey, Financial Analyst, at (202) 272-2067 or Lewis B. Reich, Special Counsel, at (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations

1. The Fund is a Massachusetts business trust seeking registration under the 1940 Act as an open-end diversified investment company. The Fund currently comprises four Series: the Money Market Series, the Bond Series, the Balanced Series, and the Equity Series. Additional Series may be created in the future.

2. The Fund intends to offer shares of its existing and future Series to separate accounts of any interested insurance company to fund variable annuity contracts and variable life insurance contracts (collectively, "variable contracts"). Insurance companies whose separate accounts own shares of the Fund are referred to herein as "participating insurance companies." It is anticipated that such insurance companies will rely on Rules 6e-2 or 6e-3(T) under the Act, although some may rely on individual exemptive orders as well, in connection with their issuance of variable life insurance contracts. The use of a common management company as the underlying investment medium for both variable annuity and variable life insurance separate accounts is referred to as "mixed funding." The use of a common management company as the underlying investment medium for separate accounts of unaffiliated insurance companies is referred to as "shared funding."

3. Rules 6e-2 and 6e-3(T) under the Act provide exemptions from the Act in order to permit insurance company separate accounts to issue variable life insurance. Rule 6e-2(b)(15), however, precludes mixed and shared funding and Rule 6e-3(T)(b)(15) precludes shared funding. Applicant requests exemptive relief to the extent necessary to permit its shares to be sold for mixed funding and shared funding. Applicant proposes that the requested relief extend to a class consisting of life insurers and variable life separate accounts investing in Applicant (and principal underwriters and depositors of such separate accounts) that would otherwise be precluded from investing in Applicant by virtue of Applicant's offering its shares to variable annuity separate accounts or unaffiliated separate accounts.

4. Applicant asserts that permitting mixed and shared funding will facilitate the establishment of additional portfolios serving diverse goals and that the broader base of contract owners can be expected to provide economic justification for the creation of additional portfolios with a greater variety of investment objectives and

policies. Further, use of the Fund as a common investment medium for variable contracts would encourage more insurance companies to offer variable contracts. Applicant believes that this will result in increased competition with respect to both variable contract design and pricing, and that this can be expected to result in greater product variety and lower charges. Applicant also believes that mixed and shared funding should benefit variable contract owners by eliminating a significant portion of the costs of establishing and administering separate funds, and that granting the requested relief should result in an increased amount of assets available for investment by the Fund which in turn may benefit variable contract owners by promoting economies of scale, by permitting greater safety through greater diversification, or by making the addition of new Portfolios of the Fund more feasible. Applicant represents that the Fund will not be managed to favor or disfavor any particular insurer or type of insurance product. Applicant believes that mixed and shared funding will have no adverse federal income tax consequences.

Disqualification

5. Section 9(a) of the Act makes it unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in sections 9(a) (1) or (2). Rules 6e-2(b)(15) (i) and (ii), and 6e-3(T)(b)(15) (i) and (ii), provide exemptions from section 9(a) under certain circumstances, subject to limitations on mixed and shared funding. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying management company.

6. The partial relief granted in Rules 6e-2(b)(15) and 6e-3(T)(b)(15) from the requirements of section 9 in effect limits the amount of monitoring necessary to ensure compliance with section 9 to that which is appropriate in light of the policy and purposes of section 9. Applicant believes that it is unnecessary to apply section 9(a) to the many thousands of individuals in various unaffiliated insurance companies (or affiliated companies of participating insurance companies) that may utilize the Fund as the funding medium for variable contracts, and asserts that extending the monitoring requirements because of mixed or shared funding would serve no regulatory purpose. Applicant states that, on the other hand, the increased monitoring costs would reduce the net rates of return realized by contract owners.

Voting

7. The language of Rules 6e-2(b)(15)(iii) and 6e-3(T)(b)(15)(iii) assumes the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. Applicant states that pass-through voting privileges will be provided with respect to all variable contract owners.

8. Rules 6e-2(b)(15)(iii) and 6e-3(T)(b)(15)(iii) provide exemptions from the pass-through voting requirement with respect to several significant matters, assuming the limitations on mixed and shared funding are observed. Rules 6e-2(b)(15)(iii)(A) and 6e-3(T)(b)(15)(iii)(A) provide that the insurance company may disregard the voting instructions of its contract owners with respect to the investments of an underlying fund or any contract between a fund and its investment adviser when required to do so by an insurance regulatory authority (subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of those Rules). According to Applicant, if a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer will be required to withdraw its separate account's investment in the Fund. This requirement will be provided for in agreements that will be entered into by participating insurers with respect to participation in the Fund.

Applicants' Conditions

Applicant has consented to the following conditions:

1. A majority of the Board of Trustees of the fund shall consist of persons who are not "interested persons" of the Fund, as defined by section 2(a)(19) of the Act and the Rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee or trustees, then the operation of this condition shall be suspended (a) for a period of 45 days if the vacancy or vacancies may be filled by the Board of Trustees; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. The Fund will comply with all provisions of the Act requiring voting by shareholders, and in particular the Fund will either provide for annual meetings or comply with section 16(c) of the Act (although the Fund is not one of the trusts described in section 16(c) of the Act) as well as with sections 16(a) and, if and when applicable, 16(b). Further, the Fund will act in accordance with the Commission's interpretation of the requirements of section 16(a) with respect to periodic elections of trustees and with whatever rules the Commission may promulgate with respect thereto.

3. The Board will monitor the Fund for the existence of any material irreconcilable conflict between the interests of the contract owners of all separate accounts investing in the Fund. An irreconcilable material conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any series are being managed; (e) a difference in voting instructions given by variable annuity contract owners and variable life insurance contract owners; or (f) a decision by an insurer to disregard the voting instructions of contract owners.

4. Participating insurance companies and the Fund's investment adviser, Dreyfus Corporation, Inc. ("Adviser"), will report any potential or existing conflicts to the Board of Trustees of the Fund. Participating insurance companies and the Adviser will be responsible for assisting the Board in carrying out its responsibilities under these conditions, by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by each participating insurance company to inform the Board whenever contractowner voting instructions are disregarded. The responsibility to report such information and conflicts and to assist the Board will be a contractual obligation of all insurers investing in the Fund under their agreements governing participation in the Fund and such responsibilities will be carried out with a view only to the interests of the contract owners.

5. If it is determined by a majority of

the Board of Trustees of the Fund, or a majority of its disinterested trustees, that a material irreconcilable conflict exists, the relevant insurance companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (a) Withdrawing the assets allocable to some or all of the separate accounts from the Fund or any Portfolio and reinvesting such assets in a different investment medium, including another Portfolio of the Fund, or submitting the question whether such segregation should be implemented to a vote of all affected contract owners and, as appropriate, segregating the assets of any appropriate group (i.e., annuity contract owners, life insurance contract owners, or variable contract owners of one or more participating insurance companies) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of an insurer's decision to disregard contract owner voting instructions and that decision represents a minority position or would preclude a majority vote, the insurer may be required, at the Fund's election, to withdraw its separate account's investment in the Fund and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of an irreconcilable material conflict and to bear the cost of such remedial action shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund and these responsibilities will be carried out with a view only to the interests of contract owners. For purposes of this condition 5, a majority of the disinterested members of the Board shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Fund or the Adviser be required to establish a new funding medium for any variable contract. No participating insurance company shall be required by this condition 5 to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of contract owners materially adversely affected by the irreconcilable material conflict.

6. The Board's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly to all participating insurance companies.

7. Participating insurance companies will provide pass-through voting privileges to all variable contract owners so long as the Commission continues to interpret the Act as requiring pass-through voting privileges for variable contract owners. Participating insurance companies shall be responsible for assuring that each of their separate accounts participating in the Fund calculates voting privileges in a manner consistent with other participating insurance companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in the Fund shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund.

8. The Fund will notify all participating insurance companies that prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate.

9. If and to the extent that Rule 6e-2 and Rule 6e-3(T) are amended, or Rule 6e-3 is adopted, to provide exemptive relief from any provision of the Act or the rules promulgated thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in this Application, then the Fund and/or the participating insurance companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e-2 and 6e-3(T), as amended, and Rule 6e-3, as adopted, to the extent such rules are applicable.

10. All reports received by the Board of Trustees of potential or existing conflicts, and all Board action with regard to determining the existence of a conflict, notifying participating insurance companies of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

For the Commission, by the Division Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25511 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16092; File No. 812-6873]

Application for Exemption; Hartford Life Insurance Co., et al.

October 28, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Hartford Life Insurance Company ("Hartford"), Hartford Life Insurance Company-Putnam Capital Accumulation Trust Separate Account ("Account").

Relevant 1940 Act Sections: Exemption requested *under* section 6(c) *from* sections 26(a)(2)(C) and 27(c)(2).

Summary of Application: Applicants request exemption to offer certain flexible premium tax deferred variable annuity contracts ("contracts") subject to a daily asset charge for mortality and expense risks at the annual rate of 1.25%, estimated at .90% and .35%, respectively.

Filing Date: The application was filed on September 18, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by November 23, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, Hartford Plaza, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Nancy Rappa (202) 272-2058 or Special Counsel Lewis B. Reich (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicant's Representations

1. Hartford Life Insurance Company ("HLIC"), a stock life insurance company organized under the laws of

the State of Connecticut, is the depositor of the Putnam Capital Accumulation Trust Separate Account ("Separate Account"), a separate account of Hartford registered under the 1940 Act as a unit investment trust. HLIC is a wholly-owned subsidiary of ITT Life Insurance Corporation. HLIC is ultimately owned by Hartford Fire Insurance Company which, in turn, is a subsidiary of ITT Corporation.

2. The Separate Account was established to fund certain flexible premium tax deferred variable annuity contracts (the "Contract" or "Contracts").

3. Under the Contracts, the Contract Owner has the right to allocate purchase payments to any one or more of six portfolios ("Funds") of the Putnam Capital Accumulation Trust, an open-end, diversified series investment company.

4. The Contracts issued with respect to the Separate Account will be offered for sale by Hartford Equity Sales Company, Inc., a registered broker-dealer and the designated principal underwriter for the Contracts.

5. The Contract Owner will not pay a sales charge at the time of purchase. The balance of each premium payment remaining after the deduction of any applicable premium tax is credited to the Contract.

6. A contingent deferred sales charge may be assessed against contract values upon surrender. The length of time from receipt of a premium payment to the time of surrender determines the contingent deferred sales charge, which equals 5% the first year, 5% the second year, 4% the third year, 3% the fourth year, 2% the fifth year and 0% the sixth year.

7. The Contract Owner may make a single partial surrender each year after the first full contract year of up to 10% of the aggregate premium payments made to the Contract without the application of the contingent deferred sales charge.

8. A maintenance fee of $25 is deducted each contract year from contract values. A daily charge of .15% per annum is made against contract values for administration.

9. The Contracts issued with respect to the Separate Account will provide for a 1.25% annual asset charge which will be paid to HLIC on a daily basis for providing mortality and expense guarantees with respect to the Contracts.

10. The mortality undertaking provided by HLIC is to make monthly annuity payments (determined in accordance with the 1983(a) Individual Annuity Mortality Table with ages set back one year and other provisions contained in the contract) to Contract Owners regardless of how long Annuitants may live. HLIC also assumes the liability for payment of a minimum death benefit under the Contract. In providing an expense undertaking, HLIC assumes the risk that the contingent deferred sales charge and the annual administrative and maintenance fees may be insufficient to cover the actual costs.

11. Applicants request an order exempting them from the provisions of sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit the deduction by HLIC and the payment to HLIC of the fee for providing the mortality and expense undertakings (deducted on a daily basis).

12. Hartford and the Separate Account represent that:

(a) The mortality and expense risk charge is within the range of industry practice for comparable annuity contracts as determined by a survey of comparable contracts issued by a large number of other insurance companies. Applicant's Contract is comparable to the contracts of other insurance companies in that (i) current charge levels are approximately the same; (ii) all provide minimum death benefit guarantees the same as or lower than Applicant's Contract; (iii) all have guaranteed annuity purchase rates; (iv) all have the same special accounting system for separate account unit value administration; and (v) all are offered in the same market. HLIC will maintain and make available to the Commission upon request a memorandum outlining the methodology underlying this representation.

(b) It is likely that the proceeds from explicit sales loads will be insufficient to cover the expected costs of distributing the contracts. HLIC has therefore concluded that there is a reasonable likelihood that the Separate Account's distribution financing arrangement will benefit the Separate Account and Contract Owners, and will maintain and make available to the Commission upon request a memorandum setting forth the basis for this representation.

(c) The Separate Account will invest only in open-end management companies which have undertaken to have a board of directors, a majority of whom are not interested persons of the open-end management company, formulate and approve any plan under Rule 12b-1 to finance distribution expenses.

13. Applicants submit that the exemption to permit the deduction for mortality and expense risks is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25513 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC—16097; 812-6828]

Application for Exemption; Shearson Daily Dividend Inc. et al.

October 29, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Shearson Daily Dividend Inc. ("SDDI"), Shearson Lehman Government and Agencies Inc. ("SLGAI"), Shearson High Yield Fund Inc. ("SHYFI"), Shearson Managed Municipals Inc. ("SMMI"), Shearson NY Daily Tax-Free Fund ("SNYDT-F"), Shearson California Daily Tax-Free Fund ("SCDT-F"), Shearson Lehman New York Municipals Inc. ("SLNYMI"), Shearson Lehman California Municipals Inc. ("SLCMI"), Shearson Lehman Michigan Municipals ("SLMM"), Shearson Lehman Ohio Municipals ("SLOM"), Shearson Lehman Series Fund ("SLSF"), Shearson Lehman Precious Metals and Minerals ("SLPMM"), The Italy Fund Inc. ("Italy Fund") (collectively, the "Applicants").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of sections 2(a)(19).

Summary of Application: Applicants seek an order of the SEC determining that Dr. Paul Hardin ("Dr. Hardin") shall not be deemed an "interested person" as defined in section 2(a)(19) of the Act of the Applicant, or any investment company as to which Shearson Lehman Brothers Inc. ("Shearson Lehman") or any of its affiliates (other than the Robinson-Humphrey Company, Inc. ("Robinson-Humphrey")) may, in the future, act as the investment, sub-investment adviser, administrator and/or principal underwriter by reason of Dr. Hardin's status as the father of Mr. P. Russell Hardin ("Mr. Hardin"), an employee of Robinson-Humphrey.

Filing Date: The application was filed on August 10, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application

will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 23, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personaly or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

Addresses: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, Two World Trade Center, New York, New York 10048.

For Further Information Contact: Cecilia C. Kalish, Staff Attorney (202) 272-3037, or Curtis R. Hilliard, Special Counsel (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

Supplementary Information: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Each of the Applicants is an investment company registered under the Act. Each, except for the Italy Fund (which is a closed-end company), is an open-end, management company. Shearson Lehman, which is controlled by American Express Company, is one of the leading full-line investment firms serving the United States and foreign securities and commodities markets. Shearson Lehman engages in the general brokerage, commission, clearing, investment banking, investment advisory, real estate, insurance and related businesses including, without limitation, the underwriting of securities. Shearson Lehman acts as the principal underwriter of the shares of, among other investment companies, the Applicants, with the exception of the Italy Fund, and in the future Shearson Lehman may act as the principal underwriter of shares of other investment companies.

2. Bernstein-Macaulay, Inc. ("Bernstein-Macaulay"), a wholly owned subsidiary of Shearson Lehman, is the investment adviser to SDDI, SLGAI, SHYI, SIMM, SLOM and the Money Market, Government Securities and High Income Bond Portfolios of SLSF. Shearson Asset Management Inc. ("Shearson Asset Management"), a wholly owned subsidiary of Shearson Lehman, is investment adviser to SMMI, SNYDT-F, SCDT-F, SLNYMI, SLCMI and the Appreciation Portfolio of SLSF. American Express Asset Management S.A. ("American Express Asset Management"), an indirect wholly-owned subsidiary of Shearson Lehman Brothers Holdings Inc., which also wholly owns Shearson Lehman, is the investment adviser to SLPMM and the Italy Fund. In the future, Bernstein-Macaulay, Shearson Asset Management, American Express Asset Management and other affiliates of Shearson Lehman may act as the investment adviser to other investment companies.

3. The Boston Company Advisors, Inc. ("Boston Advisors"), an indirect wholly owned subsidiary of Shearson Lehman, is sub-investment adviser and/or administrator of each Applicant Fund. In the future, Boston Advisors may act as investment adviser, sub-investment adviser and/or administrator to other investment companies.

4. Robinson-Humphrey, a wholly owned subsidiary of Shearson Lehman, is principally an investment banking and securities brokerage firm that is a member of the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc. and other principal securities exchanges in the United States. Robinson-Humphrey is also engaged in personal financial planning and investment research. Other activities in which Robinson-Humphrey engages include the sale of life insurance and deferred annuities to its clients, real estate brokerage and development activities, investment in Carnegie Capital Management Company, which serves as investment adviser to five registered open-end investment companies, sponsoring a series of municipal bond unit trusts and providing administrative services to pension and profit-sharing plans.

5. Applicants represent that Dr. Hardin's principal occupation is President of Drew University in Madison, New Jersey. He also serves as a Director of New Jersey Bell Telephone Co., The Summit Bancorporation, The Summit Trust Company and Mutual Benefit Life Insurance Company. Applicants represent that, starting in 1979, when he was elected to the Board of Directors of SDDI at its organizational meeting, Dr. Hardin was elected as a director or trustee of each of the Applicants at its respective organizational meetings. He has been deemed at all times not to be an interested person of the Applicants and their advisers and principal underwriter and he continues to serve as such. However, as a result of the employment by Robinson-Humphrey of Mr. Hardin, Dr. Hardin may be characterized as an "interested person" of such companies, although Applicants do not concede that such characterization would be appropriate or correct.

6. Applicants state that Mr. Hardin is Dr. Hardin's son. Mr. Hardin became an employee of Robinson-Humphrey commencing on March 27, 1987. He is engaged in sports management in the Sports Enterprises Division of Robinson-Humphrey. In this capacity, Mr. Hardin's responsibilities are limited to marketing and management activities on behalf of professional athletes and he provides no services whatsoever involving financial planning, investment management or investment advice. Mr. Hardin has been recently employed as an associate with the law firm of King & Spaulding in Atlanta, Georgia, since 1982 after his graduation from law school. Mr. Hardin is 30 years of age, was recently married, maintains a separate household and is financially independent of Dr. Hardin. Mr. Hardin has lived apart from Dr. Hardin and been financially independent continuously for the last six years.

7. Applicants states that Robinson-Humphrey does not serve as underwriter or investment adviser for any of the Applicants. No portfolio transactions of any of the Applicants are or have been executed through Robinson-Humphrey. However, in the event that it is determined that portfolio transactions of any of the Applicants may be executed through Robinson-Humphrey, each of the Applicants hereby undertakes, as a condition to the order requested hereby, that Dr. Hardin will neither vote nor participate in any deliberations as a director or trustee of any of the Applicants with respect to allocation of brokerage to Robinson-Humphrey as long as Mr. Hardin is employed by Robinson-Humphrey.

8. Applicants submit that each of the Applicant's respective Boards of Directors or Trustees have determined in good faith that in light of the foregoing, Dr. Hardin is in a position to act independently on behalf of the Applicants and their respective shareholders without any possible impairment arising out of his son's employment with Robinson-Humphrey and that it is in the best interests of the Applicants and their respective shareholders to have Dr. Hardin's status as a non-interested director clearly acknowledged.

For the Commisison, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25512 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24486]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 29, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 23, 1987 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. 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.

Maine Yankee Atomic Power Company (70-7444)

Maine Yankee Atomic Power Company ("Maine Yankee"), Edison Drive, Augusta, Maine 04336, an indirect nuclear electric generating subsidiary of Northeast Utilities and of New England Electric System, both registered holding companies, has filed a declaration with this Commission pursuant to sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

Maine Yankee proposes to issue and sell, no later than December 31, 1990, short-term notes ("Notes") in an aggregate amount at any one time outstanding of up to $21 million under current bank lines of credit, which permit the issuance of Notes aggregating $21 million, and/or commercial paper ("Commercial Paper"). The Notes will mature in nine months or less and, in the case of Commercial Paper, will be issued pursuant to an exception from competitive bidding through dealers in commercial paper and sold to institutional investors.

System Fuels, Inc., et al. (70-7450)

System Fuels, Inc. ("SFI"), P.O. Box 61532, New Orleans, Louisiana 70161, a fuel procurement subsidiary of Arkansas Power & Light Company ("AP&L"), P.O. Box 551, Little Rock, Arkansas 72203, Louisiana Power & Light Company ("LP&L"), 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39205, and New Orleans Public Service Inc., 317 Baronne Street, New Orleans, Louisiana 70112, (collectively "Parent Companies"), public utility subsidiaries of Middle South Utilities, Inc. ("MSU"), a registered holding company, and System Energy Resources, Inc. ("SERI") P.O. Box 23070, Jackson, Mississippi 39225-3070, a generation subsidiary of MSU, have filed a declaration pursuant to sections 6(a), 7, 12(b) and 12(f) of the Act and Rules 45 and 50(a)(5) thereunder.

By prior Commission order, SFI was authorized to enter into a Letter of Credit and Revolving Loan Agreement ("Credit Agreement") with Wells Fargo Bank, N.A. ("Bank"), dated September 9, 1982, to finance nuclear fuel purchases through November 30, 1987. Under the Credit Agreement, SFI could borrow up to $65 million at any one time outstanding, by issuing and selling its short-term unsecured commercial paper notes supported by the Bank's irrevocable letter of credit, or by making revolving credit loans or unreimbursed Letter of Credit payments ("Borrowings"). The Borrowings bear interest at 110% of the Bank's prime rate for unsecured commercial borrowings. The Parent Companies issued "Comfort Letters" to the Bank in support of SFI, and SERI, AP&L and LP&L, as purchasers of nuclear fuel, consented to a security agreement between SFI and the Bank. (HCAR No. 22628, September 7, 1982).

SFI proposes to extend the agreement to September 30, 1989 on the same terms and conditions, except that the quarterly Letter of Credit Fee on outstanding Borrowings will be increased from 0.25% per annum to 0.375%, the quarterly Facility Fee on the difference between the Bank's commitment and outstanding Borrowings will be increased from .50% per annum to 0.875%, and SFI will reimburse the Bank for any additional costs incurred in making or maintaining its commitment due to changes in applicable capital requirements regulations.

Columbus Southern Power Company (70-7453)

Columbus Southern Power Company (formerly, Columbus and Southern Ohio Electric Company) ("CSPCo"), 215 North Front Street, Columbus Ohio 43215, a subsidiary of American Electric Power Company, Inc., a registered holding company, has filed a declaration pursuant to sections 6(a), 7 and 12(c) of the Act and Rules 50 and 50(a)(5).

CSPCo proposes to issue and sell in any combination, through December 31, 1988, up to $260 million of its first mortgage bonds ("Bonds"), $80 million of its cumulative preferred stock ("Preferred"), and/or $260 million of unsecured long-term notes, as part of its long-term financing program. In no event will the amount of securities issued in the transactions described herein exceed a total of $260 million. The Bonds and Preferred will be sold, in one or more series, on a competitive bid basis, unless CSPCo determines that it would be advantageous to either place the securities privately with institutional investors or to negotiate their sale with underwriters, both subject to further Commission authorization.

The Connecticut Light and Power Company; Western Massachusetts Electric Company (70-7455)

The Connecticut Light and Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, wholly owned subsidiaries of Northeast Utilities, a registered holding company, have filed a declaration pursuant to sections 6(a) and 7 of the Act and Rule 50 thereunder.

The proposed transactions relate to the financing and/or refinancing of the companies' respective portions of the cost of acquiring, constructing and installing pollution control and/or sewage or solid waste disposal facilities at nuclear generating plants located in Waterford, Connecticut (Millstone 1, 2 and 3) and, with respect to CL&P only, at Seabrook, New Hampshire (Seabrook 1). The Connecticut Development Authority ("CDA") and the Industrial Development Authority of the State of New Hampshire ("IDA") intend to issue pollution control revenue bonds, as follows. In connection with the financing of Millstone 1, 2 and 3, the CDA will

issue two series of bonds on or before December 31, 1987, in principal amounts of up to $65 million for CL&P and up to $20 million for WMECO. In order to refund various bonds issued previously, the CDA will issue (i) on or before June 30, 1988, a series of bonds in principal amount of $30 million for CL&P, and (ii) on or before December 31, 1989, one or more series of bonds in principal amount of up to $223.7 million and up to $52.4 million for WMECO. The IDA also intends to issue, for refunding purposes, one or more series of bonds in principal amount of up to $36.4 million for CL&P, at one or more times through December 31, 1989.

Each series of bonds will be issued under an Indenture of Trust between the issuer and a trustee. The issuer will lend the proceeds of the bonds to CL&P or WMECO, as the case may be, pursuant to a loan agreement. The companies request that their respective borrowings under the loan agreements be excepted from the competitive bidding requirements of Rule 50, pursuant to Rule 50(a)(5). Under the loan agreement, each company will make payments corresponding to the amounts needed to pay the principal of, premium, if any, and interest on the bonds as they become due. The companies' respective obligations to repay their loans will be evidenced by promissory notes.

The bonds will bear interest under one of three rate modes prescribed in the Indentures of Trust. Upon issuance, the bonds will bear interest under the Flexible Rate Mode, under which a remarketing agent will determine the interest rate and interest rate period (not to exceed 270 days) applicable to each bond. While under the Flexible Rate Mode, the bonds will thus be similar to commercial paper. At the option of the borrowing company, the interest rates on the bonds may be converted to the Variable Rate Mode, under which the remarketing agent will set the interest rates for predetermined periods selected by the company, or to the Fixed Rate Mode, under which the remarketing agent will set the interest rate for the remaining term of the bonds. At the option of the company, the bonds will remain subject to conversion from one interest rate mode to another until conversion to the Fixed Rate Mode. The foregoing not withstanding, the interest rate on the Bonds will not exceed 15% per annum at any time. The bonds will be subject to mandatory and optional redemption, sometimes at a premium, as well as mandatory and optional tender by the holder prior to conversion to the Fixed Rate Mode.

Each series of bonds may be secured by an irrevocable letter of credit which will permit the trustee to draw funds from the issuing bank to pay unpaid principal, premium, if any, and interest on the bonds, and to pay tendering holders for bonds which cannot be remarketed. The companies' reimbursement obligations, together with all or some of their repayment obligations under the loan agreements, may be secured by second mortgages on their interests in Millstone 1.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25509 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8500]

Issuer Delisting; Application To Withdraw From Listing and Registration; The Computer Factory Inc.

October 29, 1987.

The Computer Factory, Inc. ("Company") (Common Stock, Par Value $.01), has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex"). The Company's common stock was recently listed and registered on the New York Stock Exchange, Inc. ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and the Amex. The Company does not see any particular advantage in dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before November 20, 1987, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25508 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25069; File No. SR-Amex-87-23]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Period in Which Expiring Warrants May Be Traded

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 September 25, 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. is proposing to expand the period in which expiring warrants may be traded.

The text of the proposed rule change is available at the Office of the Secretary, American Stock Exchange, Inc., 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 Exchange is proposing to expand the period in which expiring warrants may be traded. Presently, warrant trading must cease one week in advance of expiration and transactions in the immediately preceding week must be effected on a "next day" settlement basis. These provisions were adopted at a time when members or member organizations were encountering severe back-office problems and investors were unable to obtain physical possession of their securities in sufficient time to permit exercise of "in-the-money" warrants. Today, material enhancements in the trade settlement process, which have significantly reduced the "fail to deliver" problem, obviate the need for these restrictions.

The Exchange proposes to amend Rule 17 to allow warrant trading to continue through the close of business one day before expiration, provided that (i) trades made during the five final trading days be on a "cash" basis, and (ii) trades executed during the preceding three days be settled on a "next day" basis. In this way, any "fails" would surface immediately and sufficient time would be allowed for them to be reconciled. These changes would conform Exchange rules with current practice at the New York Stock Exchange.

A slightly different procedure is appropriate for warrants which are settled under book-entry procedures of the Depository Trust Company. For these, it is proposed that trading take place through the close of business on expiration date since there are no problems of physical delivery. The only warrants to which this procedure would apply presently are certain foreign currency warrants listed on the Exchange.

Technical amendments are proposing to Rule 179 to permit open orders in expiring warrants to be automatically adjusted in accordance with the objective of Rule 17.

In addition, it is proposed that Rule 124(b) be amended to eliminate unnecessary provisions and to avoid any inconsistency between the definition of "next day" therein and the proposed amendments to Rules 17 and 179.

The proposed rule change would enable a member or member organization to trade warrants as close as possible to the expiration date and thus allows the public to benefit from the potential for added and substantial market activity in warrants until expiration.

(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 intended to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition and, indeed, will enhance competition insofar as it will eliminate any competitive disparity in the trading of Amex-listed warrants in the over-the-counter market, where the existing restrictions of Rule 17 do not apply.

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 SR-Amex-87-23 and should be submitted by November 25, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: October 29, 1987.

[FR Doc. 87-25514 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing by the Midwest Stock Exchange, Inc.

October 29, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Jackpot Enterprises Inc.
Common Stock, $.01 Par Value (File No. 7-0682)

Enron Oil & Gas Co.
Common Stock, No Par Value (File No. 7-0683)

Foothill Group Inc.
Class A Common Stock, No Par Value (File No. 7-0684)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 20, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds,

based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25516 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing by the Philadelphia Stock Exchange, Inc.

October 29, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Pacific Resources, Inc.
Common Stock, No Par Value (File No. 7-0684)
Wainoco Oil Corporation
Common Stock, No Par Value (File No. 7-0685)
Arvin Industries, Inc.
Common Stock, $2.50 Par Value (File No. 7-0686)
Cabot Corporation
Common Stock, $1.00 Par Value (File No. 7-0687)
Keystone International, Inc.
Common Stock, $1.00 Par Value (File No. 7-0688)
Americus Trust for IBM Shares
Units, Primes Scores (File No. 7-0689)
Union Texas Petroleum Holdings, Inc.
Common Stock, $0.05 Par Value (File No. 7-0690)
International Rectifier Corporation
Common Stock, $1.00 Par Value (File No. 7-0691)
National Education Corporation
Common Stock, $0.01 Par Value (File No. 7-0692)
Recognition Equipment Inc.
Common Stock, $0.25 Par Value (File No. 7-0693)
AFG Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7-0694)
Anchor Glass Container Corporation
Common Stock, $0.01 Par Value (File No. 7-0695)
Transco Exploration Partners
Depository Units (File No. 7-0696)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 20, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25517 Filed 11-3-87 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25062; File No. SR-Phlx 87-31]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Listing Fee Schedule; Reduction for Certain Share Rights Plan Securities

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 September 28, 1987, the Philadelphia Stock Exchange, Inc. ("Phlx" 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 Philadelphia Stock Exchange, Inc. pursuant to Rule 19b-4 of the Act submits a proposed rule change amending the Phlx's Listing Fee Schedule for the purpose of adding the following under "Stocks and Warrants:"

Original Listing of Share Rights which ae not separately transferable, $2,500 per issue.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to establish a separate listing fee applicable only to share rights.[1] The Exchange has been listing share rights since December 1985 and has been charging the currently applicable original listing fee of $7,500 per issue. For competitive reasons, the Exchange has determined to distinguish share rights from originial listings of shares to be actually traded in light of similar fee reductions enacted by other exchanges.[2]

A flat $2,500 fee will be charged for the initial listing of share rights plans that become effective subsequent to the date of filing of this rule change. The balance of the initial listing fee ($5,000) will be charged when the share rights become exercisable and tradable separately from the common stock. In order to prevent prejudice to issuers who have listed share rights plans in the past six months, the new fees will be retroactive to March 1, 1987. Accordingly, any issuers who, in the past six months, have paid the $7,500 listing fee will be refunded the difference, provided their share rights have not been exercised and traded.

The proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among an exchange's

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[1] Share rights plans, or poison pills, have been adopted by issuers as a takeover defensive mechanism. Share rights give holders of common stock the right to purchase, at a discount, securities of the issuer upon the occurrence of certain events, such as the acquisition of a certain percentage of the issuer's common stock by an outside party. The rights are not transferable from the issuer's common stock and cannot be exercised and traded until a triggering event occurs.

[2] *See*, Securities Exchange Act Rel. Nos. 23241 (May 15, 1986), 51 FR 18859 (SR-NYSE-86-13) and 23242 (May 15, 1986), 51 FR 18713 (SR-Amex-86-13).

members, issuers, and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No comments on this proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission believes that it is reasonable and consistent with section 6(b)(4) of the Act for the Phlx to reduce the initial listing fee for share rights from $7500 to $2500, in light of the fact that these rights are not actually traded on the exchange when they are listed. Further, the collection of an additional $5,000 fee should be rights be converted into stock that is traded on the exchange is also appropriate in that it would put the total $7,500 fee collected on par with the original listing fees for securities listed and immediately traded on the exchange.

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and paragraph (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 Act.

V. 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 Phlx. All submissions should refer to the file number in the caption above and should be submitted by November 25, 1987.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 26, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-25515 Filed 11-3-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1035]

Public Information Collection Requirements Submitted to OMB for Review

AGENCY: Department of State.

ACTION: The Department of State has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

SUMMARY: The Arts in Embassies Program receives donations of art work in the form of loans from private individuals, museums, etc. The information collection is needed to arrange for insurance of the art work and to determine estimated costs involved in shipping the object to its destination. The following summarizes the information collection proposal submitted to OMB:

Title of information collection: Loan Agreement.

Originating office: Arts in Embassy Program.

Form number: DSP-98.

Type of request: New.

Frequency: On occasion.

Respondents: Loaners of Objects of Art.

Estimated number of responses: 600.

Estimated number of hours needed to respond: 600.

Section 3504(h) of Pub. L. 96-511 does not apply.

Additional Information or Comments: Copies of the proposed form and supporting documents may be obtained from Gail J. Cook (202) 647-3538. Comments and questions should be directed to (OMB), Francine Picoult (202) 395-7340.

Dated: October 26, 1987.

Richard C. Faulk,

Acting Assistant Secretary for Administration.

[FR Doc. 87-25498 Filed 11-3-87; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Holmes County, FL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescind Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will not be prepared for a proposed highway project in Holmes County, Florida.

FOR FURTHER INFORMATION CONTACT: David P. Van Leuven, District Engineer, Federal Highway Administration, 227 North Bronough Street, Room 2015, Tallahassee, Florida 32201, Telephone: (904) 681-7231.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare an Environmental Impact Statement (EIS) for a proposed highway project to construct an interchange on I-10 near Westville in Holmes County, Florida, was issued on December 18, 1986 and published in the December 29, 1986 **Federal Register.** The FHWA, in cooperation with the Florida Department of Transportation, has since determined that preparation of an EIS is not necessary for this proposed highway project and hereby rescinds the previous Notice of Intent. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and construction. The regulations implementing Executive Order 12372 regarding intergovernment consultation of Federal programs and activities apply to this program.)

Issued on: October 22, 1987.

David P. Van Leuven,

District Engineer, Tallahassee, Florida.

[FR Doc. 87-25488 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP 87-07, Notice 2]

Porsche Cars North America, Inc.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Porsche Cars of North America, Inc., of

Reno, Nevada, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.108, Federal Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment.* The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of a petition was published on June 17, 1987, and an opportunity afforded for comment (52 FR 23132).

Paragraphs S4.1.1.36(a) (2) and (3) of Standard No. 108 require that the lens of each replaceable bulb headlamp have three pads which meet the requirements of dimensional specifications for location of aiming pads on replaceable bulb headlamp units. Unless the most forward aiming pad is the lower inboard aiming pad, a whole number, which represents the distance in tenths of an inch from the aiming reference plane to the respective aiming pads which are not in contact with the plane, shall be inscribed adjacent to each respective aiming pad on the lens.

In June of 1986, Porsche installed approximately 115 seats of replaceable headlamps, manufactured by Robert Bosch, on its 1987 model 928S-4. These headlamps do not comply with S4.1.1.36(a) (2) and (3) of Standard No. 108 because they lack the dimensions for the aiming pads. Porsche also received 35 sets of noncompliant headlamps as spare parts, of which approximately 23 sets were sold. The remaining 12 sets were returned to Robert Bosch.

Porsche supported its petition with the following:

1. The Porsche 928S-4 uses headlamps which are oriented vertically and there is no tendency for any aerodynamic inclination. Any experienced mechanic can tell by a physical examination of the headlamp that it does not require aerodynamic positioning.

2. The headlamps without the aiming pad inscription are not likely to be misaimed because these lamps are vertically positioned. Mechanics will aim them in the same way they aim sealed beam headlamps, without pulling out the indexing legs on the aerodynamic headlamp adapters. Therefore these headlamps will be properly aimed even without the dimensions for the aiming pads inscribed on the lens.

3. * * * all Porsche dealers will be advised soon by letter of the dimensions for the aiming pads. A copy of the letter will be submitted to NHTSA when it is prepared.

4. All other required markings are inscribed on the lens.

One comment was received on the petition. Messrs. Clement Kochinke and Louis E. Emery supported it, though recommending that Porsche notify State motor vehicle inspection authorities of the dimensions for the aiming pads to minimize the possibility of confusion at inspection stations.

The agency asked Porsche if it were willing to notify State authorities or owners of the 138 noncompliant vehicles of the correct dimensions and received an affirmative answer. Porsche has in fact written owners and dealers with this information and, in the agency's opinion, this is sufficient to ensure proper aiming of both original and replacement motor vehicle headlamps.

Accordingly, it is hereby found that petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: October 30, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87-25531 Filed 11-3-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

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: 1545-0150
Form Number: 2848 and 2848-D
Type of Review: Revision
Title: Power of Attorney and Declaration of Representative; Tax Information Authorization and Declaration of Representative
Description: Form 2848 is used to authorize someone to act for the respondent in tax matters. It grants all powers that the taxpayer has except signing the return and cashing refund checks. Form 2848-D allows a person to inspect or receive confidential tax information. Data is used to identify representatives/appointees and to ensure that confidential information is not divulged to unauthorized persons.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 190,780 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

Comptroller of the Currency

OMB Number: New
Form Number: None
Type of Review: New Collection
Title: OCC Former Employee Questionnaire
Description: The OCC needs the information generated in the former employee questionnaire to evaluate the reasons for employee attrition. The goal of the program is to reduce attrition. The affected public is former OCC employees.
Respondents: Individuals or households
Estimated Burden: 56 hours
Clearance Officer: Eric Thompson (202) 447-1632, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219
OMB Reviewer: Robert Fishman (202) 395-7340, Office of Management and Budget, Room 3228, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports, Management Officer.

[FR Doc. 87-25479 Filed 11-3-87; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 213
Wednesday, November 4, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COPYRIGHT ROYALTY TRIBUNAL:

TIME AND DATE: Thursday, Novembr 12, 1987, 2 00 p.m.

PLACE: 1111 20th Street, NW. Suite 450, Washington, DC 20036.

STATUS: Closed pursuant to a vote taken October 29, 1987.

MATTERS TO BE CONSIDERED: Formal rulemaking in the 1987 public broadcasting rate adjustment proceeding.

CONTACT PERSON FOR MORE INFORMATION: Robert Cassler, General Counsel, Copyright royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036, 202-653-5175.

Dated: October 30, 1987.

J.C. Argetsinger,

Chairman

[FR Doc. 87-25567 Filed 10-30-87; 8:44 pm]

BILLING CODE 1410-09-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 30, 1987.

TIME AND DATE: 10:00 a.m., Thursday, November 5, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced items, the Commission will also consider and act upon the following:

3. *Helen Mining Company*, Docket No. PENN 86-94-R, etc. (Issues include consideration of a motion by the Secretary of Labor to strike a portion of Helen Mining Company's brief.)

It was determined by a unanimous vote of Commissioners that this item be included in the meeting of November 5 and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87-25638 Filed 11-2-87; 1:07 pm]

BILLING CODE 6735-01-M

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Friday, November 6, 1987 at 10:00 a.m.

PLACE: Room 117, 701 E Street NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Inv. 731-TA-371 (Final) (Fabric and Expanded Neoprene Laminate from Taiwan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

October 23, 1987.

[FR Doc. 87-25578 Filed 11-2-87; 9:51 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Monday, November 9, 1987 at 2:00 p.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Inv. 731-TA-354 (Final) (Stainless Steel Pipes and Tubes from Sweden)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

October 23, 1987.

[FR Doc. 87-25579 Filed 11-2-87 9:51 am]

BILLING CODE 7020-02-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, November 10, 1987.

PLACE: Board Room (Room 812A), Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Revised Safety Study—Emergency Medical Service Helicopter Operations.
2. Railroad Accident Report: Derailment of Amtrak Passenger Train No. 8 Operating on the Soo Line Railroad, Fall River, Wisconsin, November 9, 1986.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Bea Hardesty,

Federal Register Liaison Officer.

October 30, 1987.

[FR Doc. 25571 Filed 10-30-87; 4:45 pm]

BILLING CODE 7533-01-M

Corrections

Federal Register
Vol. 52, No. 213
Wednesday, November 4, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-ANE-22; Amendment 39-5732]

Airworthiness Directives; Teledyne Continental Motors

Correction

In rule document 87-22723 beginning on page 36754 in the issue of Thursday, October 1, 1987, make the following correction:

§ 39.13 [Corrected]

On page 36755, in the third column, in the table, in the left hand column, "New" should read "Rebuilt".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 87-AWP-17]

Alteration and Establishment of Restricted Areas; Yuma, AZ

Correction

In rule document 87-24111 beginning on page 38752 in the issue of Monday, October 19, 1987, make the following correction:

§ 73.23 [Corrected]

On page 38752, in the third column, in the amendment for § 73.23, under **R-2306A**, in the seventh line, "33°52'30"" should read "32°52'30"".

BILLING CODE 1505-01-D

federal register

Wednesday
November 4, 1987

Part II

Office of Management and Budget

Budget Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To The Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report six deferrals of budget authority totaling $96,285,288.

The deferrals affect programs in the Departments of Energy, Health and Human Services, and Justice.

The details of these deferrals are contained in the attached report.

Ronald Reagan

The White House,
October 29, 1987.

CONTENTS OF SPECIAL MESSAGE

[in thousands of dollars]

Deferral No.	Item	Budget authority
	Department of Energy Power Marketing Administration	
D88-14	Alaska Power Administration, Operation and maintenance.	120
D88-15	Southeastern Power Administration, Operation and maintenance.	2,000
D88-16	Southwestern Power Administration, Operation and maintenance.	6,000
D88-17	Western Area Power Administration, Construction, rehabilitation, operation and maintenance.	774
	Department of Health and Human Services	
D88-18	Office of Assistant Secretary for Health: Scientific activities overseas (special foreign currency).	2,391
	Department of Justice	
D88-19	Office of Justice Program: Crime victims fund.	85,000
	Total, deferrals	96,285

SUMMARY OF SPECIAL MESSAGES FOR FY 1988

[in thousands of dollars]

	Rescissions	Deferrals
Second special message:		
New items		96,285
Revisions to previous special messages		
Effects of second special message		96,285
Amounts from previous special messages that are changed by this message (changes noted above)		
Subtotal, rescissions and deferrals		96,285
Amounts from previous special messages that are not changed by this message		1,776,738
Total amount proposed to date in all special messages		1,873,023

BILLING CODE 3110-01-M

Deferral No: D88-14

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	New budget authority..... $ _____ (P.L. _____)
Bureau: Power Marketing Administration	Other budgetary resources.. 630,000
Appropriation title and symbol: Alaska Power Administration, Operation and maintenance 1/ 89X0304	Total budgetary resources.. 630,000
	Amount to be deferred: Part of year..... $ _____
	Entire year..... 120,000
OMB identification code: 89-0304-0-1-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund:	Type of budget authority:
[ ] Annual	[X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: This account funds the activities of the Alaska Power Administration (APA), an agency that operates and sells power from two hydroelectric projects located in Alaska. The law requires APA to deliver power to its customers at the lowest cost consistent with sound business practice. Further, the law requires APA to recover all costs from its customers, thus mandating that APA carefully examine proposed costs to avoid unnecessary spending. In 1987, appropriated funds were in excess of the levels needed for procurements because several procurements were made at a lower cost than originally assumed. Consequently, the level of unobligated funds carried into 1988 was higher than previously planned. There currently is no plan to use these funds in 1988, although the funds will be released later this year if a significant, unplanned need arises. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1987 (D87-9).

Deferral No: D88-15

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	New budget authority..... $ _____ (P.L. _____)
Bureau: Power Marketing Administration	Other budgetary resources.. 2,100,000
Appropriation title and symbol: Southeastern Power Administration, Operation and maintenance 89X0302	Total budgetary resources.. 2,100,000
	Amount to be deferred: Part of year..... $ _____ Entire year..... 2,000,000
OMB identification code: 89-0302-0-1-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other _____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: This account funds the marketing activities of the Southeastern Power Administration (SEPA), an agency that sells wholesale hydroelectric power produced at Corps of Engineers dams in 10 southeastern states. The law requires SEPA to deliver power to its customers at the lowest cost consistent with sound business practice. Further, the law requires SEPA to recover all costs from its customers, thus mandating that SEPA carefully examine proposed costs to avoid unnecessary spending. In 1987, appropriations were in excess of amounts required to purchase power and pay non-Federal utilities to deliver it because these costs were lower than the level assumed previously. As a result, the level of unobligated funds carried into 1988 for purchasing power was higher than previously assumed. There currently is no plan to use these funds in 1988, although the funds will be released later this year if a significant, unplanned need arises. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D88-16

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	New budget authority..... $ ____ (P.L. ____)
Bureau: Power Marketing Administration	Other budgetary resources.. 26,006,000
Appropriation title and symbol: Southwestern Power Administration, Operation and maintenance 1/ 89X0303	Total budgetary resources.. 26,006,000
	Amount to be deferred: Part of year..... $ ____ Entire year..... 6,000,000
OMB identification code: 89-0303-0-1-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This account funds the activities of the Southwestern Power Administration (SWPA), an agency that markets wholesale hydroelectric power produced at Corps of Engineers dams in six southwestern states. SWPA activities also include construction, operation and maintenance of approximately 1,660 miles of transmission lines over which power is distributed to customers. The law requires SWPA to deliver power to its customers at the lowest cost consistent with sound business practice. Further, the law requires SWPA to recover all costs from its customers, thus mandating that SWPA carefully examine proposed costs to avoid unnecessary spending. In 1987, available funds were in excess of amounts required to purchase power and pay non-Federal utilities to deliver it because higher rainfall resulted in higher power generation from the Federal dams. As a result, the level of unobligated funds carried into 1988 for purchasing power was higher than assumed when the 1988 Budget was prepared. There currently is no plan to use these funds in 1988, although the funds will be made available if a significant, unplanned need arises. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1987 (D87-10A).

Deferral No: D88-17

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	New budget authority..... $ _____ (P.L._____)
Bureau: Power Marketing Administration	Other budgetary resources... 128,815,000
Appropriation title and symbol: Western Area Power Administration, Construction, rehabilitation, operation and maintenance 1/ 89X5068	Total budgetary resources... 128,815,000
	Amount to be deferred: Part of year..... $ _____
	Entire year..... 774,000
OMB identification code: 89-5068-0-2-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund:	Type of budget authority:
[ ] Annual	[X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: This account funds the activities of the Western Area Power Administration (WAPA), an agency that markets wholesale hydroelectric power produced at projects principally operated by the Bureau of Reclamation and the Corps of Engineers in 15 western states. WAPA activities also include construction, operation and maintenance of approximately 16,000 miles of transmission lines over which power is distributed to customers. The law requires WAPA to deliver power to its customers at the lowest cost consistent with sound business practice. Further, the law requires WAPA to recover all costs from its customers, thus mandating that WAPA carefully examine proposed costs to avoid unnecessary spending. In 1987, available construction funds were in excess of amounts required due to contract slippage. As a result, the level of unobligated funds carried into 1988 was higher than assumed when the 1988 Budget was prepared. There currently is no plan to use these funds in 1988, although the funds will be made available if a significant, unplanned need arises. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1987 (D87-29).

Deferral No: D88-18

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Health and Human Services	New budget authority..... $ _____ (P.L. _____)
Bureau: Office of Assistant Secretary for Health	Other budgetary resources.. 4,791,288
Appropriation title and symbol: Scientific activities overseas (special foreign currency) 1/ 75X1102	Total budgetary resources.. 4,791,288
	Amount to be deferred: Part of year..... $ _____ Entire year..... 2,391,288
OMB identification code: 75-1102-0-1-552	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other _____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: The Scientific activities overseas program is funded with appropriations which consist of excess foreign currencies owned by the United States. The currencies of Burma and Poland held by the Treasury have been designated as excess to normal U.S. needs in 1988. Funds for this program, which remain available until expended, are used for scientific research projects in those countries.

The amount of funds to be obligated during 1988 and the amount to be deferred for the entire year were determined after a careful review of the scientific merit of project proposals in the countries for which excess currency is available. The research projects in those countries that will contribute toward meeting U.S. scientific needs have been selected for funding in 1988. The amount being deferred is excess to current program requirements and is being reserved for contingencies under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1987 (D87-11).

Deferral No: D88-19

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department Justice	New budget authority..... $ 85,000,000 (P.L. 98-473)
Bureau: Office of Justice Programs	Other budgetary resources... 84,733,000
Appropriation title and symbol: Crime victims fund 1/ 15X5041	Total budgetary resources... 169,733,000
	Amount to be deferred: Part of year..... $ ____ Entire year..... 85,000,000
OMB identification code: 15-5041-0-2-754	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This appropriation is a special fund which is credited with Federal criminal fines, forfeited appearance bonds, and penalties not to exceed $110 million each fiscal year. From these funds, grants are provided to states for crime victim compensation programs and crime victim assistance programs. Each state receives a small amount fixed by law plus additional amounts based on actual program performance. The carryover from 1987 will be obligated early in 1988. The estimated 1988 collections of $85 million are deferred and will be disbursed early in 1989. This allows the Office of Justice Programs to know precisely how much money is available for award and avoid overobligating or underobligating fund collections. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1987 (D87-13).

[FR Doc. 87-25530 Filed 11-3-87; 8:45 am]
BILLING CODE 3110-01-C

federal register

Wednesday
November 4, 1987

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing; Fee Schedule for Vessels in Exclusive Economic Zone; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 71030-7230]

Foreign Fishing, Fee Schedule for Vessels in Exclusive Economic Zone

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

ACTION: Proposed rule.

SUMMARY: NOAA proposes in 1988 foreign fee schedule for foreign vessels fishing in the exclusive economic zone (EEZ). Under this fee schedule, owners or operators of foreign vessels would pay $354 per fishing permit application and 10.98 percent of the FY 1987 Magnuson Fishery Conservation and Management Act (Magnuson Act) costs. Vessels of any fishing nations meeting the criteria of Pub. L. 99-272 would be required to pay an additional incremental amount of 59.31 percent of the base fees. Additionally, the surcharge for the Fishing Vessels and Gear Damage Compensation Fund is increased to 15 percent of the foreign fees. Comments are requested on this fee schedule. This action complies with section 204(b)(10) of the Magnuson Act.

DATE: Comments must be received on or before December 4, 1987.

ADDRESS: Send comments to: Fees and Permits Branch, F/TS21, National Marine Fisheries Service, Washington, DC 20235. Mark envelopes "Foreign Fees."

Copies of the draft regulatory impact review (RIR) and a detailed breakdown of NMFS costs are available at this address.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, 202-673-5319.

SUPPLEMENTARY INFORMATION: NOAA proposes a schedule of permit application and poundge fees for fishing during 1988 by foreign vessels in the EEZ. The new schedule would target collections of about $20.5 million from foreign fishing in 1988 with an additional amount of $12.1 million in collections possible under provisions of Pub. L. 99-272. These amounts are determined as described below. NOAA has consulted with the Coast Guard and the Department of State (DOS) on this proposal. The Department of State agrees with its publication for public comments.

NOAA is publishing the proposed 1988 fee schedule as a single unit containing both foreign poundage and permit application fees. Readers are advised, however, that the final fees may be published separately should there be delays in adopting final poundage or final permit application fees.

Background

Subparagraph 204(b)(10)(B) of the Magnuson Act, as amended, requires the Secretary of Commerce to impose fees on the owners or operators of foreign fishing vessels for which permits are issued "at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of [the Magnuson] Act during * * * fiscal year [1987] the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the exclusive economic zone during [1986] bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during [1986]." [16 U.S.C. 1824(b)(10)(B)].

However, if the Secretary of Commerce, in consultation with the Secretary of State, finds a fishing nation to be "harvesting anadromous species of United States origin at a level that is unacceptable to the Secretary," or "failing to take sufficient action to benefit the conservation and development of United States fisheries," subparagraph 204(b)(10)(C) applies. Subparagraph 204(b)(10)(C) requires the Secretary to impose fees for that nation which bear to the ratio of the fish harvested by foreign vessels in the EEZ to the aggregate quantity of fish harvested by both foreign and domestic vessels in the EEZ *only*. Removing the quantity of U.S. harvested fish caught in the territorial waters from the formula increases the ratio and thereby the fees that the nation must pay.

Fees have been collected for foreign fishing since 1977 under annual schedules set forth at 50 CFR 611.22. Fees collected under these schedules were $43.4 million from 1977 through 1980, and $182.2 million from 1981 through 1985. The increase in fees since 1981 stems from the current Magnuson Act requirement to recover at least costs attributed to foreign fishing. A decrease in fees collected occurred in 1986 as the result of large reductions in foreign fishing. Fees collected in 1986 were $31.1 million and another reduction is expected in 1987.

Foreign fees are assessed for the whole weight of fish harvested (poundage fees) and for processing foreign fishing applications (permit application fees). The foreign fee target to be sought from both fees and proposed herein for 1988 is $20.496 million—less than the $40.8 million foreign fee collection target in 1987. The foreign fee target amount is determined by applying the 1986 ratio of the foreign catch in the EEZ to the total catch in the EEZ and territorial waters, 10.98 percent, against the total Magnuson Act costs for fiscal year (FY) 1987, $186.668 million. The ratio of the poundage fee collection target to the estimated value of the 1988 foreign harvest of all species (as discussed later) determines the rate at which fees are assessed by species. The species fees proposed for 1988 and listed in the table of the regulatory text at § 611.22 are a uniform percentage of the exvessel value. Readers should refer to 51 FR 36569 (October 14, 1986) for a more detailed discussion of the background and methodology of the foreign fee schedule.

FY 1987 Costs for Purposes of the Magnuson Act

The Federal Government's costs of carrying out provisions of the Magnuson Act in FY 1987 were calculated by using the general estimating techniques that were used to estimate costs for fee schedules since 1982 (see 46 FR 55729, Nov. 12, 1981) together with improvements made in the 1986 fee schedule (50 FR 41533, Oct. 11, 1985).

All NMFS units submit documentation of the planned use of funding allocations. "Operations plans," which include a narrative description of activities and the amounts budgeted for labor, travel, contracts, etc., are analyzed to identify the costs of performing functions directed toward provisions of the Magnuson Act, without regard to legislative authorizations for certain activities predating the Magnuson Act. Documentation is available at the above address.

The total FY 1987 NMFS cost was determined to be $81.235 million. The NMFS FY 1987 costs are 2.71 percent above its actual FY 1986 costs of $79.095 million. Other NOAA and Department of Commerce Magnuson Act costs are $10.971 million or one percent above FY 1986 costs. The FY 1987 cost data for establishing the 1988 fee target are shown in Table 1, with comparative data from FY 1985 and FY 1986 for all Federal agencies incurring Magnuson Act costs.

The Department of State estimates its FY 1987 costs at $299,600, the same level as in FY 1985 and 1986.

The Coast Guard's costs for fisheries enforcement activities in FY 1987 were determined using the methods employed in former years and include indirect program support costs. The Coast Guard's FY 1987 costs of $94.162 million

are up 2.64 percent from actual Coast Guard costs in FY 1986, but 16.27 percent below the FY 1986 estimates of $112.459 million used for the 1987 fee schedule. This change in FY 1986 costs reflects a temporary suspension of enforcement operations in 1986.

The estimated total cost for carrying out the provisions of the Magnuson Act in FY 1987 in $186.668 million. This total is proposed to be adopted for the calculation of the foreign fishing fee target in 1988.

BILLING CODE 3510-22-M

TABLE 1. DETERMINATION OF FISCAL YEAR 1987 AGENCY COSTS FOR PURPOSES OF THE MAGNUSON ACT AND COMPARISONS WITH FISCAL YEAR 1985 AND 1986 COSTS

THOUSAND DOLLARS

DEPARTMENT/AGENCY/ LINE OFFICE	FY85 COST	FY86 DIFF	FY86 COST (1)	FY87 DIFF	FY87 COST	FY87 + (-) %
DOC - SUPPORT TOTAL	177	0	177	23	200	12.99
DOC - NOAA - ADMIN	284	20	304	65	369	21.38
DOC - NOAA - NESDIS	276	11	287	(42)	245	(14.63)
DOC - NOAA - RASCS	190	(15)	175	10	185	5.71
DOC - NOAA - SEA GRANT	763	(30)	733	64	797	8.73
DOC - NOAA - SHIPS	10,093	(918)	9,175	0	9,175	0.00
TOTAL	11,606	(932)	10,674	97	10,771	0.91
DOC - NMFS - HDQS	15,307	263	15,570	(1,368)	14,202	(8.79)
DOC - NMFS - F/NEC	11,730	233	11,963	(224)	11,739	(1.87)
DOC - NMFS - F/SEC	12,178	661	12,839	144	12,983	1.12
DOC - NMFS - F/SWC	6,161	(188)	5,973	641	6,614	10.73
DOC - NMFS - F/NWC	18,055	167	18,222	328	18,550	1.80
DOC - NMFS - F/NER	4,770	378	5,148	(432)	4,716	(8.39)
DOC - NMFS - F/SER	3,209	(159)	3,050	2,312	5,362	75.80
DOC - NMFS - F/SWR	2,574	(370)	2,204	80	2,284	3.63
DOC - NMFS - F/NWR	2,517	(198)	2,319	(442)	1,877	(19.06)
DOC - NMFS - F/AKR	1,944	(137)	1,807	1,101	2,908	60.93
TOTAL	78,445	650	79,095	2,140	81,235	2.71
DOC - ALL AGENCY TOTAL	90,228	(282)	89,946	2,260	92,206	2.51
DOS - OES/OFA TOTAL	300	0	300	0	300	0.00
DOT - CG (2) TOTAL	132,314	(40,572)	91,742	2,420	94,162	2.64
GRAND TOTAL	222,842	(40,854)	181,988	4,680	186,668	2.57

(1) FY86 GRAND TOTAL REVISED (FIGURE PREVIOUSLY REPORTED AT 51 FR 36570 WAS $202,705K).
(2) COAST GUARD NOTES THAT ITS ACCOUNTING SYSTEM INDICATES THAT $37,249K IS A MORE ACCURATE ESTIMATE OF THE FY87 DIRECT COSTS FOR FOREIGN ENFORCEMENT THAN COSTS DETERMINED BY THE RATIO OF FOREIGN CATCH TO TOTAL CATCH. THE TABLE ABOVE INCLUDES BOTH DIRECT AND INDIRECT COSTS.

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Ratios of the 1986 Foreign Catch to Total Catch

Principles applied since enactment of Pub. L. 96–561 for estimating the ratio of the foreign catch to the total catch in the EEZ and territorial waters are employed for the 1986 ratio. The 1986 catch data are the most current official data now available for the year preceding preparation of this fee schedule. Some comments on prior fee schedules have been critical of the statistical ratios used to determine the fee schedule target. They have claimed that the ratios do not reflect the foreign share of the total catch and projections should be used to determine that share. NOAA has responded to the comments in prior schedules, but continues to invite further comments on its methods. Readers interested in more details should refer to the discussion on the statistics for setting fees contained in 50 FR 41533. The ratio used for the 1988 fee schedule is 10.98 percent. Table 2(A) lists data used for this ratio.

In addition to the above, subparagraph 204(b) (10) (C) requires that a higher level of fees be established for each fiscal year for nations found to be harvesting anadromous species of U.S. origin at levels unacceptable to the Secretary or not taking actions to benefit the conservation and development of United States fisheries. That level is determined by the ratio of the foreign catch to the total catch in the EEZ only. Table 2(B) shows the 1986 catches in the EEZ and appropriate adjustments of the tuna and mollusk catches. The ratio of catches so determined shows that 17.43 percent of the 1986 catch in the EEZ was taken by foreign vessels. That ratio was 35.05 percent in the prior year. Nations falling under one or both of the above criteria ("high fee nations") in calendar year 1988 will pay against 17.43 percent of total Magnuson Act costs or pay an incremental amount equal to 59.31 percent of their poundage fees in addition to the poundage fees proposed in this schedule for their catches in 1988.

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TABLE 2. ESTIMATED RATIOS OF FOREIGN CATCH TO TOTAL CATCH, 1986

(A) INCLUDING TERRITORIAL WATERS	(MT)
U.S. COMMERCIAL CATCH (1)	4,260,039
EXCLUSIONS:	
INTERNATIONAL WATERS	246,442
TUNA (0 - 200 MILES)	14,949
FRESHWATER (INCL. G. LAKES ALEWIVES)	65,338
U.S. COMMERCIAL CATCH LESS EXCLUSIONS	3,933,310
ADDITIONS:	
CORRECTION FOR MOLLUSKS (3)	628,470
RECREATIONAL CATCH (4)	210,481
TOTAL U.S. CATCH	4,772,261
FOREIGN CATCH (5)	588,353
TOTAL CATCH	5,360,614
RATIO INCLUDING TERRITORIAL WATERS.....:	10.98

(B) EXCLUDING TERRITORIAL WATERS	(MT)
U.S. COMMERCIAL CATCH (1)	4,260,039
EXCLUSIONS:	
INTERNATIONAL WATERS	246,442
TUNA (3 - 200 MILES)	14,681
ALL CATCH INSIDE 3 MILES (2)	1,592,079
U.S. COMMERCIAL CATCH LESS EXCLUSIONS	2,406,837
ADDITIONS:	
CORRECTION FOR MOLLUSKS (3)	302,362
RECREATIONAL CATCH (4)	78,306
TOTAL U.S. CATCH	2,787,505
FOREIGN CATCH (5)	588,353
TOTAL CATCH	3,375,858
RATIO EXCLUDING TERRITORIAL WATERS.....:	17.43

(1) THIS FIGURE AND ALL FOLLOWING FIGURES FOR U.S. COMMERCIAL CATCH FROM PAGES 8 - 11 OF "FISHERIES OF THE UNITED STATES, 1986" (CALCULATED IN POUNDS AND CONVERTED TO METRIC TONS). FIGURES MAY NOT ADD DUE TO ROUNDING.
(2) EXCEPT FOR TEXAS AND WEST COAST OF FLORIDA, WHERE BOUNDARY LINE IS NINE NAUTICAL MILES FROM SHORE. ALSO EXCLUDES ANY WATERS BEYOND THREE NAUTICAL MILES FROM SHORE CONSIDERED TO BE INTERNAL (E.G., AREAS OF PUGET SOUND).
(3) ADDITION OF MOLLUSK SHELLS (U.S. STATISTICS FOR INTERNAL USE INCLUDE ONLY EDIBLE MEAT WEIGHT, WHEREAS INTERNATIONAL STANDARD INCLUDES SHELL WEIGHTS).
(4) BASED ON 1986 DATA FOR ATLANTIC, GULF AND PACIFIC; 1981 DATA FOR WESTERN PACIFIC; 1979 DATA FOR CARIBBEAN. INCLUDES CATCH TYPES A AND B1 AND ASSUMES AVERAGE WEIGHT OF B1 IS SIMILAR TO A.
(5) FROM PAGE 30, "FISHERIES OF THE UNITED STATES, 1986."

BILLING CODE 3510-22-C

The 1988 Foreign Fishing Fee Collection Target

Section 204(b)(10)(B) of the Magnuson Act requires that foreign fishing vessel owners or operators pay at least the amount calculated from the ratio of the foreign catch to the total catch in the EEZ and territorial waters. Therefore, the fees will be based on a target of at least 10.98 percent of the total Magnuson Act costs ($186.668 million calculated in Table 1) in 1988. That target is $20.496 million as shown below.

Fee target (1988) = ($186.668 million) × (0.1098) = $20.496 million.

If all nations in 1988 were found to be "high fee" nations, $32.536 million would be the total fee target. A similar calculation uses the ratio of the catches in the EEZ, 17.43 percent, to calculate that amount.

High fee amount (1988) = ($186.668) × (0.1743) = $32.536 million.

Approximately $194,800 is expected to be received for 1988 permit application fees (see below). The application fees are subtracted from $20.496 million to arrive at the amount to be collected for the foreign catch by poundage fees, $20.301 million or $32.341 million under the "high fees." The 1988 proposed poundage fee target is $20.299 million lower than the $40.600 million target in 1986, and the "high fee" amount is $38.523 million less than the "high fee" target in 1987. These changes reflect the reductions in the Coast Guard's estimated costs in FY 87 and the major reduction in foreign catches in 1986.

Permit Application Fees

NOAA determines foreign fishing permit application fees annually by estimating the costs of processing an application during that fee year (45 FR 82267, Dec. 15, 1980). The estimated costs used to develop the proposed 1988 permit application fee are shown in Table 3.

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TABLE 3. ESTIMATED COSTS ASSOCIATED WITH PROCESSING 1988 FOREIGN FISHING PERMIT APPLICATIONS

DEPARTMENT/CATEGORY	DOLLARS
DOC - COMPUTER	20,000
DOC - PRINTING (APPLICATIONS/PERMITS)	200
DOC - PRINTING (FEDERAL REGISTER)	10,900
DOC - SALARIES/BENEFITS	123,700
DOC - TOTAL	154,800
DOS - COMPUTER	4,000
DOS - DUPLICATING/MAILING	1,700
DOS - SALARIES/BENEFITS	32,500
DOS - TRAVEL	1,800
DOS - TOTAL	40,000
GRAND TOTAL	194,800

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The total estimated cost of processing each permit application in 1988 is $354. The total cost is apportioned to each application by estimating that 550 applications will be received in 1988 and then rounding the average unit cost to $354 per application (see below). Applicants for 1988 permits should pay this amount at the time of making application pending a final rule. NOAA will bill for any additional permit application fees or credit to future fees any differences in the amounts paid if the final permit application fee is different from the fee proposed. The increase in the permit application fee from $184 per application in 1987 results from a decrease in the expected number of applications for directed fishing and an increase in costs of processing joint venture applications.

Proposed Species Fees

NOAA collects foreign fees mainly through tonnage fees for the fish caught by foreign vessels. These are the poundage fees. The fee per ton for a species is based on an estimate of "exvessel value" of that species, that is, the value to fishermen on delivering the catch to the first buyer.

On June 16, 1987, NMFS requested information on current foreign exvessel values from representatives of foreign nations fishing in the EEZ. A list of exvessel values for setting fees for 1988 was prepared using the information furnished by respondents and data held by NMFS.

The method used to determine appropriate exvessel values for the 1988 fee schedule is similar to the method adopted since the 1985 schedule. NOAA continues to hold the view that prices paid to U.S. joint venture fishermen are perhaps different from the values of fish to foreign fishing companies for the reasons stated in the 1985 fee schedule, see response to Comment 3.b at 50 FR 460 (Jan. 4, 1985). Joint venture prices for different species in a fishery complex may be useful, in some instances, for establishing relative values between fish species which make up that complex or when other information is lacking. Methods used for establishing 1988 exvessel values in the main depend on foreign price information and other data held by NMFS. In a greater number of cases than in prior years, joint venture prices were used to establish a dollar value because other information was unavailable. Joint venture prices are first adjusted if appropriate to include consideration of the fees which would be paid if a foreign vessel harvested the fish. Despite projections of zero catches of many species in 1988, exvessel values are proposed for all the species listed in former schedules. This will preserve consistency in NOAA's methods and obviate the need to amend the 1988 fee schedule should predictions concerning foreign fishing change when 1988 specifications are completed. Values by fishery were determined as follows and are listed in Table 4 with comparative data for 1987.

BILLING CODE 3510-22-M

TABLE 4. COMPARISON OF 1987 FINAL AND 1988 PROPOSED EXVESSEL VALUES PER METRIC TON

SPECIES	FISHERY	1987 FINAL EXVESSEL VALUE ($)	1988 PROPOSED EXVESSEL VALUE ($)	1988 ($) INCREASE/ DECREASE	1988 (%) INCREASE/ DECREASE
ALASKA POLLOCK	BSA/GOA	172	214	42	24.42
ATKA MACKEREL	BSA/GOA	237	267	30	12.66
PACIFIC COD	BSA/GOA	287	324	37	12.89
FLATFISH	BSA/GOA	183	187	4	2.19
PACIFIC OCEAN PERCH	BSA/GOA	391	441	50	12.79
OTHER ROCKFISH	BSA/GOA	651	734	83	12.75
PACIFIC SQUID	BSA/GOA	140	169	29	20.71
OTHER SPECIES	BSA/GOA	213	240	27	12.68
SABLEFISH	BSA	419	473	54	12.89
SNAILS	BSA	256	289	33	12.89
SABLEFISH	GOA	796	898	102	12.81
JACK MACKEREL	WOC	510	573	63	12.35
FLATFISH	WOC	651	713	62	9.52
PACIFIC OCEAN PERCH	WOC	604	721	117	19.37
OTHER ROCKFISH	WOC	686	756	70	10.20
SABLEFISH	WOC	810	935	125	15.43
PACIFIC WHITING	WOC	122	176	54	44.26
OTHER SPECIES	WOC	725	915	190	26.21
BUTTERFISH	NWA	618	618	0	0.00
RED HAKE	NWA	369	369	0	0.00
SILVER HAKE	NWA	393	393	0	0.00
RIVER HERRING	NWA	139	139	0	0.00
ATLANTIC MACKEREL	NWA	139	154	15	10.79
SQUID, ILLEX	NWA	390	234	(156)	(40.00)
SQUID, LOLIGO	NWA	662	553	(109)	(16.47)
OTHER SPECIES	NWA	268	268	0	0.00
ATLANTIC SHARKS	ABS	423	423	0	0.00
PACIFIC BILLFISH	PBS	1,985	1,985	0	0.00
DOLPHIN FISH	PBS	5,515	5,515	0	0.00
STRIPED MARLIN	PBS	1,854	1,854	0	0.00
PACIFIC SHARKS	PBS	1,103	1,103	0	0.00
PACIFIC SWORDFISH	PBS	2,337	2,337	0	0.00
WAHOO	PBS	2,206	2,206	0	0.00
SEAMOUNT GROUNDFISH	SMT	397	397	0	0.00
CORAL ($:KILOGRAM)	WPC	206	206	0	0.00

BILLING CODE 3510-22-C

The Alaska Groundfish Fisheries

Representatives of Korean fishing interests provided average exvessel values by species by month for Alaska groundfish landed in Korean ports. The People's Republic of China (PRC) provided frozen block prices for pollock and yellowfin sole. Poland provided an Alaska pollock price (and a price for Pacific whiting also). The Japan Fisheries Association (JFA) provided data on fresh and frozen fish landings for the Kushiro Wholesale Market. Price data for some species for which JFA provided data in former years, such as yellowfin sole, were not provided this year. The information used covered the period April 1986 through March 1987. Additionally, Japanese market information published in the Foreign Fishery Information Release, appended to the NMFS Terminal Island Market News Report, was used to establish the exvessel value of Alaska pollock. Alaska pollock was used as the index for Alaska groundfish prices. The frozen pollock surimi block prices on the Tokyo Central Wholesale Market (TCWM) were reduced to exvessel values under the assumptions concerning product recovery, profit, and value added described in NOAA's proposed fee schedule for 1985 (49 FR 40615, Oct. 17, 1984). Prices of frozen surimi blocks in early 1987 were adopted as the source data for the exvessel values. Surimi block prices of $1.42 to $1.40 per pound were reduced to a proposed exvessel value of $214/mt.

Exvessel values for all the other Alaska groundfish species were derived from the ratios of frozen block prices on the Kushiro market to a theoretical frozen Alaska pollock block price in that market. These ratios were multiplied by the exvessel value estimated for pollock to determine exvessel values for each species. The resulting species values were adopted for the fee schedule and compared with the data provided by the Republic of Korea (ROK) and the PRC. The ROK data were within 10 percent of the adopted values; the PRC data for headed and gutted pollock are within expected ranges. Poland's pollock price after accounting for costs and product recovery is within 12 percent of the adopted value.

In selecting a flatfish price, NOAA reviewed estimated catch summary data compiled by the Foreign Fishing Observer Program of the Northwest and Alaska Fisheries Center to project the species composition of the 1988 flatfish category. The adopted exessel value for flatfish of $187/mt represents a weighted price based on the 1986 composition and species price ratios to pollock, where available.

The Pacific Groundfish Fishery

Data on exvessel or frozen block values of Pacific whiting in foreign markets are again sparse, because markets for whiting are mainly in eastern Europe and prices are State controlled. Price information from Poland suggests an increase in the exvessel value, however, from $122/mt in 1987 to $176/mt in 1988. The combined pollock and whiting price provided by Poland is within 3 percent of the mean of prices for pollock and whiting in this schedule.

The exvessel values proposed for the other species taken in the Pacific groundfish foreign trawl fisheries under the incidental catch provisions of the Pacific Groundfish Fishery Management Plan are domestic prices and taken from the Pacific Fishery Management Council's *Preliminary Port Group Report: Commercial Groundfish, estimated prices per pound for 1987 for all areas.* Exvessel values for all groundfish again increase significantly over the prior year's values. Use of domestic pricing does not significantly affect this foreign fishery because incidental catch constitutes less than 0.05 percent of the Pacific whiting catch. The selected exvessel values for these incidental species are shown in Table 4.

Northwest Atlantic Ocean Fisheries

Representatives of foreign nations fishing in the Northwest Atlantic Ocean (NWA) fisheries did not provide price information for the schedule. Therefore, available prices in the *European Fish Price Report* published by the Northeast Regional Office, NMFS, were reduced for product recovery and adopted for this fee schedule. Proposed 1988 values for the Northwest Atlantic Ocean fisheries are shown in Table 4.

Western Pacific Fisheries

NOAA has not received any information to cause a revision of the exvessel values adopted in the final schedule since 1986. Therefore, NOAA proposes that the same values be used in 1988 (see Table 4).

Summary of Proposed 1988 Species Fees

The species fee per ton is derived by calculating the ratio of the poundage fee collection target to the estimated total exvessel value of the foreign catch in 1988 to determine the poundage fee assessment rate and then multiplying that rate by the exvessel value adopted for that species.

The total value of the foreign catch is calculated by multiplying the exvessel value proposed for each species by the projected catch of that species in 1988. Catch projections were provided by NMFS Regional Offices based on current understandings of the TALFF's which may be available in 1988. The total value of the 1988 foreign catch is the sum of the values of the catches of all species. Table 5 shows the data used for these calculations and lists the entire set of proposed 1988 species fees.

The ratio of the poundage fee collection target ($20.301 million) to the estimated total exvessel value of the 1988 foreign catch ($29.931 million) results in a 1988 poundage fee assesment rate of 67.83 percent of the exvessel value in 1988.

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TABLE 5. ESTIMATED 1988 FOREIGN CATCH/VALUE WITH RECOVERED COSTS OF $ 20,301,000

SPECIES	FISHERY	PROPOSED EXVESSEL VALUE ($)	ESTIMATED FOREIGN CATCH (MT)	ESTIMATED FOREIGN CATCH VALUE ($)	PROPOSED SPECIES FEE ($)	RECOVERED COSTS ($)
ALASKA POLLOCK	BSA/GOA	214	540	115,560	145.15	78,379
ATKA MACKEREL	BSA/GOA	267	1	267	181.09	181
PACIFIC COD	BSA/GOA	324	30,000	9,720,000	219.75	6,592,604
FLATFISH	BSA/GOA	187	105	19,635	126.83	13,317
PACIFIC OCEAN PERCH	BSA/GOA	441	1	441	299.11	299
OTHER ROCKFISH	BSA/GOA	734	1	734	497.84	498
PACIFIC SQUID	BSA/GOA	169	1	169	114.62	115
OTHER SPECIES	BSA/GOA	240	1,200	288,000	162.78	195,336
SABLEFISH	BSA	473	3	1,419	320.81	962
SNAILS	BSA	289	600	173,400	196.01	117,609
SABLEFISH	GOA	898	0	0	609.07	0
JACK MACKEREL	WOC	573	1,500	859,500	388.64	582,957
FLATFISH	WOC	713	50	35,650	483.59	24,180
PACIFIC OCEAN PERCH	WOC	721	31	22,351	489.02	15,160
OTHER ROCKFISH	WOC	756	369	278,964	512.76	189,208
SABLEFISH	WOC	935	86	80,410	634.17	54,538
PACIFIC WHITING	WOC	176	50,000	8,800,000	119.37	5,968,613
OTHER SPECIES	WOC	915	250	228,750	620.60	155,150
BUTTERFISH	NWA	618	8	4,944	419.16	3,353
RED HAKE	NWA	369	0	0	250.27	0
SILVER HAKE	NWA	393	26	10,218	266.55	6,930
RIVER HERRING	NWA	139	96	13,344	94.28	9,051
ATLANTIC MACKEREL	NWA	154	60,000	9,240,000	104.45	6,267,043
SQUID, ILLEX	NWA	234	0	0	158.71	0
SQUID, LOLIGO	NWA	553	6	3,318	375.07	2,250
OTHER SPECIES	NWA	268	128	34,304	181.77	23,267
ATLANTIC SHARKS	ABS	423	0	0	286.90	0
PACIFIC BILLFISH	PBS	1,985	0	0	1,346.33	0
DOLPHIN FISH	PBS	5,515	0	0	3,740.56	0
STRIPED MARLIN	PBS	1,854	0	0	1,257.48	0
PACIFIC SHARKS	PBS	1,103	0	0	748.11	0
PACIFIC SWORDFISH	PBS	2,337	0	0	1,585.07	0
WAHOO	PBS	2,206	0	0	1,496.22	0
SEAMOUNT GROUNDFISH	SMT	397	0	0	269.27	0
CORAL ($:KILOGRAM)	WPC	206	0	0	139.72	0
TOTALS			145,002	29,931,378		20,301,000

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The proposed 1988 poundage fee assessment rate of 67.83 percent is a major increase when compared to the final 1987 rate of 47.61 percent, and is 1.42 times the rate for 1987. The increase manifests the distribution of foreign fishing costs to a rapidly diminishing set of foreign users of the resource. In 1985, in anticipation of large declines in foreign fishing, the Administration proposed an amendment of § 204(b)(10) to provide greater flexibility in setting the level of foreign fees. The amendment was not enacted, however. NOAA also considered whether fees in addition to permit application fees should be assessed for fish processing in the EEZ. It was not possible to predict the effects of such fees on U.S. fishermen since specific information needed to analyze costs and benefits was lacking.

The average exvessel value in 1987 was $191/mt; the 1988 average is $206/mt. This increase in the average exvessel value reflects relative stability of the Pacific cod fishery when compared to reductions in the other Alaska groundfish fisheries and a general increase in exvessel values of the other fish expected to be allocated in 1988.

The "higher fee" assessment rate as determined by this rule is 108.05 percent of the total exvessel value of the foreign catch ($32.341 million/$29.931 million). The Magnuson Act (at 16 U.S.C. 1824(b)(10)(F)(ii)) requires that additional fees collected as a result of the "higher fee" criteria be deposited in the general fund of the U.S. Treasury. NOAA has elected to collect the additional fees as an incremental amount of the poundage fees rather than publish a separate fee table based on fees assessed at 108.05 percent of exvessel values. No additional amounts will be added to the permit application fees. In practice, NOAA will bill countries meeting one or both of the criteria at the lower fee rate, but add an incremental amount as a percentage of the total poundage fee bill. The amount of 59.31 percent (or $12.040 million/$20.301 million × 100) of the lower fees for the tonnage caught will be added to bills for these countries and be identified as the amount to be paid to the general fund of the U.S. Treasury.

Consistent with the reasons given above, NOAA proposes to amend section 611.22 of the foreign fishing regulations by this action as required by the fee provisions of 16 U.S.C. 1824(b)(10).

Surcharge

The Assistant Administrator for Fisheries, NOAA, has determined that the Fishing Vessel and Gear Damage Compensation Fund established by the Fishermen's Protective Act [22 U.S.C. 1980(10)(f)] will require additional capital to pay claims in 1988 and future years. Capitalization of the fund is derived from a surcharge on the foreign fishing fees imposed under section 204(b)(10) of the Magnuson Act. NOAA proposes to increase the surcharge to 15 percent in 1988. Therefore, a surcharge of 15 percent is proposed by this notice, and would amend regulations governing the surcharge at 50 CFR 611.22(d). NOAA reserves the right to modify the surcharge at a later date if circumstances change.

Section 10 of the Fishermen's Protective Act requires an annual surcharge. Outlays from the fund authorized by section 10 have recently exceeded income. In view of the diminishing potential for foreign fishing fees, failure to surcharge would deplete this fund's capital account sooner than otherwise necessary. Projections indicate that a 15 percent surcharge will extend this fund's capital solvency by six years.

Classification

NOAA has prepared a regulatory impact review (RIR) that discusses the economic consequences and impacts of the proposed fee schedule and its alternatives. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, has determined that the proposed schedule does not constitute a major rule under E.O. 12291. The RIR demonstrates that the proposed fee schedule complies with the requirements of section 2 of E.O. 12291.

The General Counsel for the Department of Commerce has certified that the proposed fee schedule if adopted will not have a significant economic impact upon a substantial number of small entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*. This certification has been forwarded to the Chief Counsel for Advocacy of the Small Business Administration. Because the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities, a regulatory flexibility analysis is not required, and has not been prepared.

NOAA Directive 02-10 published at 45 FR 49312 (July 24, 1980) adopts internal procedures to implement the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*). Under those procedures, programmatic functions with no potential for significant environmental impacts are generally excluded from NEPA requirements.

The proposed fee schedule has no direct impact on the fishery resources in the EEZ. At the most, a fee schedule might affect the harvesting strategy of foreign fishing vessels and result in a different species mix being removed from the environment; however, the proposed schedule meets the criterion that fees should minimize disruption of traditional fishing patterns on target species. The environmental impact of harvesting the TALFF is described for each fishery management plan, and no further environmental assessment is necessary.

This proposed rule has no information collection provisions for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: October 30, 1987.

Carmen J. Blondin

Special Associate for Trade, National Marine Fisheries Service.

PART 611—[AMENDED]

For the reasons above, 50 CFR Part 611 is proposed to be amended as follows:

1. The authority citation for Part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. Section 611.22 (a), (b)(1) including Table 1, (c), and (d) are revised as follows:

§ 611.22 Fee schedule for foreign fishing.

(a) *Permit application fees.* Each vessel permit application submitted under § 611.3 must be accompanied by a fee of $354 per vessel, plus the surcharge, if required under paragraph (d) of this section, rounded to the nearest dollar. At the time the application is submitted to the Department of State, a check for the fees, drawn on a U.S. bank, made out to "Department of Commerce, NOAA," must be sent to the Division Chief, Trade Services Division, F/TS21, National Marine Fisheries Service, Washington, DC 20235. The permit fee payment must be accompanied by a list of the vessels for which the payment is made.

(b) *Poundage fees*—(1) *Rates.* If a nation chooses to accept an allocation, poundage fees must be paid at the rate specified in Table 1, plus the surcharge required by paragraph (d) of this section.

TABLE 1.—SPECIES AND POUNDAGE FEES

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish	419.16
2. Hake, red	250.27
3. Hake, silver	266.55
4. Herring, river	94.28
5. Mackerel, Atlantic	104.45
6. Other groundfish	181.77
7. Squid, *Illex*	158.71
8. Squid, *Loligo*	375.07
Atlantic and Gulf fisheries:	
9. Shark, Atlantic	286.90
10. Shrimp, royal red	(1)
Alaska fisheries:	
11. Pollock, Alaska	145.15
12. Cod, Pacific	219.75
13. Pacific ocean perch	299.11
14. Rockfish, other	497.84
15. Mackerel, Atka	181.09
16. Squid, Pacific	114.62
17. Flounders	126.83
18. Sablefish (Gulf of Alaska)	609.70
19. Sablefish (Bering Sea and Aleutian Islands)	320.81
20. Groundfish, other	162.78
21. Snails	196.01

TABLE 1.—SPECIES AND POUNDAGE FEES—Continued

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fees
Pacific fisheries:	
22. Whiting, Pacific	119.37
23. Sablefish	634.17
24. Pacific ocean perch	489.02
25. Rockfish, other	512.76
26. Flounders	483.59
27. Mackerel, jack	388.64
28. Groundfish, other	620.60
Western Pacific fisheries:	
29. Coral [2]	139.72
30. Dolphin fish	3,740.56
31. Wahoo	1,496.22
32. Sharks	748.11
33. Marlin, striped	1,257.48
34. Billfish	1,346.33
35. Swordfish	1,585.07

[1] Reserved.
[2] Dollars per kilogram.

* * * * *

(c) *Incremental amount.* An additional incremental amount will be added to the poundage fee Bill for Collection for fish harvested by a nation during the first quarter of the next fiscal year following notification under paragraph (10)(C) of section 204(b) of the Magnuson Act (16 U.S.C. 1824(b)(1)(C)). This incremental amount will be added to all subsequent quarterly bills until the quarter specified when the Assistant Administrator notifies that nation that it has taken appropriate corrective action. The incremental amount in 1988 will be 59.31 percent of the total poundage fee in each quarter during which this provision applies.

(d) *Surcharges.* The owner or operator of each foreign vessel who accepts and pays permit application or poundage fees under paragraphs (a) or (b) of this section must also pay a surcharge. The Assistant Administrator may reduce or waive the surcharge if it is determined that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently. The Assistant Administrator also may increase the surcharge during the year to a maximum level of 20 percent, if needed, to maintain capitalization of the fund. The Assistant Administrator will require payment of a surcharge of 15 percent on 1988 fees.

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Reader Aids

Federal Register

Vol. 52, No. 213

Wednesday, November 4, 1987

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-1184
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-5240
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

41943-42072.....2
42073-42268.....3
42269-42420.....4

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....41998

3 CFR

Proclamations:
5734.....41943
Administrative Orders
Presidential Determinations
No. 88-1 of
October 5, 1987.....42073

7 CFR

354.....41945
907.....42269
946.....41946
1137.....42269
1468.....42075
1472.....42075
1901.....41947
1942.....41947
1951.....42271
1955.....41956
Proposed Rules:
59.....42297
984.....42298
1240.....42300

9 CFR

312.....41957
381.....41957

10 CFR

50.....42078

12 CFR

35.....41959
207.....41962
208.....42087
220.....41962
221.....41962
224.....41962
324.....41966
325.....41969
563b.....42091
Proposed Rules:
208.....42301
225.....42301
332.....42304
501.....42116
543.....42116
544.....42116
545.....42116
546.....42116
551.....42116

13 CFR

121.....42093
Proposed Rules:
120.....42305

14 CFR

39.....41973, 41975, 42397
21.....42093
23.....42093
71.....42272-42274
73.....42397
75.....42274, 42275
Proposed Rules:
39.....42001, 42002, 42308
71.....42176, 42309

15 CFR

806.....42275

17 CFR

3.....41975
4.....41975
140.....41975
240.....42277
270.....42280
274.....42280

18 CFR

Proposed Rules:
37.....42003

19 CFR

Proposed Rules:
141.....42310
178.....42310

21 CFR

5.....41986
81.....42096, 42097
175.....41987
430.....42287
440.....42287
455.....42287
510.....41987
558.....41988
Proposed Rules:
101.....42003

24 CFR

232.....41988
235.....41988
885.....41989
Proposed Rules:
24.....42004

26 CFR

1.....42098
602.....42098
Proposed Rules:
1.....42116
602.....42116

27 CFR

5.....42100

19 42100

28 CFR

Proposed Rules:
700 42314

29 CFR

Proposed Rules:
1910 42321
2550 42322

30 CFR

Proposed Rules:
701 42258
780 42258
784 42258
815 42258
816 42258
817 42258

31 CFR

358 41990

32 CFR

361 41993
706 42102-42103

33 CFR

165 41995

37 CFR

Proposed Rules:
1 42016

38 CFR

1 42104
21 42113

40 CFR

60 ..... 42061, 42114
180 ..... 42290, 42291
271 41996
Proposed Rules:
52 ..... 42019, 42323, 42325
60 42326
141 ..... 42178, 42224
142 ..... 42178, 42224

41 CFR

201-38 42292

42 CFR

2 ..... 41996, 42061

44 CFR

Proposed Rules:
59 42117
60 42117
61 42117
62 42117
65 42117
70 42117
72 42117

48 CFR

2806 42295
Proposed Rules:
525 42125
552 42125

50 CFR

17 ..... 42063, 42067
630 42295
642 42296
672 42114
Proposed Rules:
611 42408
646 42125

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List November 3, 1987