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

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1980

Business and Industrial Loan Program—Internal Recordkeeping

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations requiring information on Business and Industry loans to be tracked by use of Form FmHA 2033–34, "Management System Card—Business and Industry," and the Rural Community Facilities Tracking System (RCFTS). The intended effect of this action is to make use of the Form FmHA 2033–34 by FmHA State Offices optional. Enhancements to RCFTS make use of the form as a recordkeeping system no longer necessary.

EFFECTIVE DATE: June 27, 1990.

FOR FURTHER INFORMATION CONTACT: Mary Ann Graves, Loan Assistant, Business and Industry Division, Farmers Home Administration, USDA, room 6321, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 475–5878.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and since this action has no impact on FmHA borrowers or other members of the public, it has been determined to be exempt from those requirements because it involves only internal Agency management.

Internal Review

This program is listed in the Catalog of Federal Domestic Assistance under 10.422, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (7 CFR part 3105, subpart V; 48 FR 29112, June 24, 1983; 49 FR 2267, May 31, 1984; 50 FR 14088, April 10, 1985).

Environmental Impact Statement

This document has been reviewed in accordance with FmHA Instruction 1940–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, Public Law 91–190, an Environmental Impact Statement is not required.

Discussion of Final Rule

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves internal Agency information management and publication for comment is unnecessary.

List of Subjects in 7 CFR Part 1980

Loan programs—Business and industry—Rural development assistance, Rural areas.

Accordingly, title 7, chapter XVIII, of the Code of Federal Regulations is amended as follows:

PART 1980—GENERAL

1. The authority citation for part 1980 is revised 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; Pub. L. 100–387; Pub. L. 101–82.

Subpart E—Business and Industrial Loan Program

2. In § 1980.451, under *Administrative*, paragraph *A* 5 is revised to read as follows:

§ 1980.451 Filing and processing applications.

* * * * *

A. * * *

5. Will input the necessary data via terminal screens into the Rural Community Facility Tracking System (RCFTS). The RCFTS data structure consists of 3 sets: Applicant/Borrower (BOR), Facility (FAC), and Loan/Grant Request (LGR) sets. There are multiple screens for the BOR and LGR sets. The State Director may, if he/she so desires, prepare a Form FmHA 2033–34, "Management System Card—Business and Industry," in accordance with FmHA Instruction 2033–F.

* * * * *

Dated: June 1, 1990.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 90–14822 Filed 6–26–90; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1 90–088]

Safety Zone Regulations; Tenth Annual Groton-New London Harbor Fireworks

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in New London Harbor, CT. This safety zone is needed to protect marine traffic and spectator craft from the safety hazard associated with a fireworks display. Entry into this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

EFFECTIVE DATES: This regulation becomes effective at 9 p.m. July 7, 1990, 15 minutes prior to the display. It terminates upon completion of the display at approximately 9:45 p.m., July 7, 1990, unless terminated sooner by the Captain of the Port. Rain date will be July 8th at the same times.

FOR FURTHER INFORMATION CONTACT: Lt. David Skewes (203) 468–4464.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is

needed to protect any marine traffic from the potential hazards involved.

Drafting Information

The drafters of this regulation are BMC Cassin, project officer, Captain of the Port Long Island Sound, and LT Korroch, project attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation will begin at 9:15 p.m. on July 7, 1990. It is the launching of approximately 1000 lbs. of fireworks in New London Harbor, New London, CT. This Safety Zone is needed to protect any transiting commercial or recreational marine traffic from the possible hazards associated with the fireworks display in the channel area.

This regulation is issued pursuant to U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. A new 33 CFR 165.T1088 is added to read as follows:

§ 165.T1088 Safety zone: New London/Groton fireworks display.

(a) *Location.* The following area is a safety zone: All waters within a 1000 ft radius of the Barges "Bay 1", "AM1", and "YPS 3" (the fireworks launching platforms at approximate positions 41°20'58.5"N, 072°05'27"W, 41°20'56"N, 072°05'27"W, and, 41°20'55"N, 072°05'27" W). This safety zone will be marked with 8 large orange spheres/marker bouys. The safety zone will be closed to all marine traffic from 9 p.m. until the completion of the display at approximately 9:45 p.m. on July 7, 1990.

(b) *Effective date.* This regulation becomes effective on July 7, 1990 at 9 p.m. approximately 15 minutes prior to the display. It terminates upon completion of the display at approximately 9:45 p.m. July 7, 1990, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the Captain of the Port or his on scene representatives.

Dated: June 18, 1990.

T.H. Collins,

Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.

[FR Doc. 90–14884 Filed 6–26–90; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

34 CFR Parts 76, 77, 82, 200, 201, 203, 298, 319, 600 668, 669, and 673

Announcement of Effective Dates

AGENCY: Department of Education.

ACTION: Notice of effective dates.

SUMMARY: Section 431(d) of the General Education Provisions Act requires that most Department of Education regulatory documents be published in the **Federal Register** for forty-five (45) calendar days, or longer if Congress takes certain adjournments, before they take effect. Since future congressional adjournments cannot be predicted with certainty when document is published, the Department cannot announce a specific effective date at the time of publication. This notice announces the effective dates for certain regulatory documents subject to the delayed effective date requirement of section 431(d).

DATES: For effective dates, see **"SUPPLEMENTARY INFORMATION."**

FOR FURTHER INFORMATION CONTACT: Kenneth C. Depew, Acting Director, Division of Regulations Management, Office of the General Counsel, Department of Education, room 2131, FOB–6, 400 Maryland Avenue SW., Washington, DC 20202–2241. Telephone: (202) 401–2887.

SUPPLEMENTARY INFORMATION: The effective date provision for each of the regulatory documents included in this notice stated that the effective date would be announced in a notice published in the **Federal Register.** Accordingly, this notice announces the following effective dates:

PART 600—[AMENDED]

1. 34 CFR part 600, final regulations for Institutional Eligibility under the Higher Education Act of 1965, as amended, published October 2, 1989 (54 FR 40388).

DATES: *Effective date:* November 16, 1989.

PARTS 200, 201, 203—[AMENDED]

2. 34 CFR parts 200, 201, and 203, final regulations for chapter 1—Migrant Education Program, published October 23, 1989 (54 FR 43220).

DATES: *Effective date:* December 23, 1989.

PART 668—[AMENDED]

3. 34 CFR part 668, final regulations for Student Assistance General provisions and Institutional Eligibility, published November 3, 1989 (54 FR 46536).

DATES: *Effective date:* December 23, 1989.

PART 673—[AMENDED]

4. 34 CFR part 673, final regulations for Income Contingent Loan Program—Due Diligence, published November 6, 1989 (54 FR 46692).

DATES: *Effective date:* December 23, 1989.

PART 319—[AMENDED]

5. 34 CFR part 319, final regulations for Training Personnel for the Education of the Handicapped; Grant to State Educational Agencies and Institutions of Higher Education, published January 3, 1990 (55 FR 194).

DATES: *Effective date:* March 1, 1990.

PART 669—[AMENDED]

6. 34 CFR part 669, final regulations for Language Resource Centers Program, published January 26, 1990 (54 FR 2772).

DATES: *Effective date:* March 28, 1990.

PART 82—[AMENDED]

7. 34 CFR part 82, interim final regulations for New Restrictions on Lobbying, published February 26, 1990 (54 FR 6752).

DATES: *Effective date:* April 27, 1990.

PARTS 76, 77, 298—[AMENDED]

8. 34 CFR parts 76, 77, and 298, final regulations for the Federal, State, and Local Partnership for Educational Improvement, published April 18, 1990 (55 14810).

DATES: *Effective date:* June 14, 1990.

Authority: 20 U.S.C. 1232(d).

Dated: June 19, 1990.

Edward C Stringer,

General Counsel.

[FR Doc. 90–14767 Filed 6–26–90; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 123 and 130

[FRL 3790-8]

EPA Action on Individual Control Strategies Under the Clean Water Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final agency interpretation.

SUMMARY: EPA is clarifying when its final agency action on an individual control strategy (ICS) under section 304(1) of the Clean Water Act occurs. Further, EPA is providing notice of what judicial forum EPA believes is appropriate for review of approvals and disapprovals of ICSs, in cases in which such decisions are reviewable. Finally, EPA is providing notice of its position regarding the reviewability of EPA's decisions to list waters under section 304(1).

FOR FURTHER INFORMATION CONTACT: For questions regarding this notice, Diane Regas or Roland Dubois, Office of General Counsel (LE-132S), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-7700; or, for questions regarding particular decisions, the Water Management Division in the relevant regional office: Region 1, (617) 565-3478; Region 2, (212) 264-2513; Region 3, (215) 597-9410; Region 4, (404) 347-4450; Region 5, (312) 353-2147; Region 6, (214) 655-7100; Region 7, (913) 551-7030; Region 8, (303) 293-1542; Region 9, (415) 705-2078; Region 10, (206) 442-1237.

SUPPLEMENTARY INFORMATION: .

On June 2, 1989, EPA published final rules implementing section 304(1) of the Clean Water Act (CWA). 54 FR 23868. Those rules specified the bases on which EPA would approve or disapprove lists and ICSs submitted by the states pursuant to section 304(1). In addition, the rules established EPA's procedures for involving the public in making section 304(1) decisions.

Since then, EPA has made initial approvals or disapprovals of all of the states' lists and ICSs, and has requested public comment on most of these decisions. At the same time EPA and the states, in cooperation, have been developing final lists and ICSs.

In the preamble to the final regulations EPA interpreted section 509(b)(1)(G) of the CWA by saying, "EPA believes that the permits that EPA issues as ICSs reviewable in the court of appeals. Review of any other actions by EPA under section 304(1) must be obtained in district court." 54 FR at 23895. Various questions have arisen regarding when EPA's actions taken under section 304(1) are final for the purposes of judicial review and regarding the above interpretation of section 509(b)(1)(G).

The purpose of this notice is to clarify when EPA believes that decisions made by it under section 304(1) of the CWA are final agency actions for purposes of judicial review. Identifying the date of final agency action will ensure more orderly judicial review of those Agency decisions that are judicially reviewable. The date of final agency action with respect to ICS-related decisions is important because it is now the Agency's position that any judicial challenge to ICS-related actions must be filed in the courts of appeals pursuant to section 509(b)(1)(G) of the CWA. Section 509(b)(1) requires petitions for review to be filed within 120 days of final agency action. This notice does not address defenses to judicial review that the Agency might invoke, but only the timing for bringing such action.

EPA's regional offices made initial decisions approving or disapproving lists [1] and ICSs submitted by the states on or about June 4, 1989. The Regions requested public comment on all of their disapproval decisions and on most of their approval decisions. EPA's regulations require that when a Region seeks public comment on its decision, the Region must issue a subsequent decision and respond to public comments by June of 1990. (54 FR 23868, 23897-23899, 40 CFR 123.46(e)(3).) It is the Agency's position that when a Region solicited public comment on its initial decision, that decision was not final.

I. Finality of ICS Decisions

ICSs, like NPDES permits, may be developed by the states or by EPA. NPDES permits, however, are the only vehicle under the CWA for imposing effluent limitations on point source dischargers. An ICS consists of a draft or final NPDES permit with supporting documentation showing that the limitations in the permit would be sufficient to meet the water quality standards within the statutory deadlines. 40 CFR 123.46(c) (1989). Changes in NPDES permits because of the section 304(1) program are only effective after the permitting authority has determined, as a part of the permitting process, that limitations are necessary to meet water quality standards as required by CWA section 301(b)(1)(C). Until the permitting authority issues a new permit or modifies an existing permit, a discharger listed on a section 304(1) list must only comply with its pre-existing permit requirements, even if an ICS has been developed. Therefore approvals and disapprovals of ICSs do not themselves affect the legal obligations of dischargers. Given that EPA's actions on ICSs do not impose or alter legal obligations, EPA believes that the critical factors in determining whether the Agency has taken final agency action on an ICS are (1) Whether EPA has made its definitive pronouncement on what limitations will be sufficient to comply with water quality standards, and (2) whether EPA intends to take any further action. The timing of this definitive decision in turn depends on whether the state or EPA is issuing the permit.

A. State-Issued Permits

1. After an Approval

EPA will consider regional decisions approving state-developed ICSs to be final agency actions if the Region issues its decision and does not seek further public comment. The decision shall be final on the date the Region publishes notice of the decision pursuant to the June 2, 1989 regulations, 40 CFR 123.46(e)(2) (1989), 54 FR 23897.

EPA approvals of state draft or final permits that constitute ICSs represent EPA's final determination that the limitations in the permit or draft permit will be sufficient to attain and maintain water quality standards. To the extent such a determination may be reviewed at all, the time for seeking judicial review of EPA approvals of ICSs begins on the date of the approval, and is not dependent on issuance of a final permit by the state. The precise permit limitations may be determined only through the state permitting process, including any evidentiary hearing. (If the state unacceptably modifies the permit during that process, EPA may reconsider its approval decision or review the permit pursuant to section 402(d) and object to the permit in accordance with that section.)

When EPA approves a state draft or final permit as an ICS, EPA has made a determination, as required by section 304(1), that the limitations will be sufficient to protect water quality standards. This finding is not a substitute for the normal permitting process in which the necessity of particular limitations is determined by the permitting authority. A determination to impose limitations in the permit must be supported by an administrative record showing that there is a reasonable potential for an

[1] This notice focusses on EPA decisions regarding ICSs because those decisions must be challenged, if judicially reviewable, in the courts of appeals within 120 days of final agency action.

exceedance of the water quality standard, caused or contributed to by the discharger, and thus the limitations are necessary. *See* 40 CFR 122.44(d). Thus, EPA believes that its approval of an ICS can be challenged, if at all, only on claims that the Agency's finding under section 304(1) is in error; this means reviewing EPA's determination that the limitations will be sufficient to satisfy the requirements of that section.

On some initial decisions issued on or about June 4, 1989, the Regions approved ICSs without seeking public comment, finding that there previously had been adequate notice and opportunity to comment. However, in some cases, the regional decisions did not make clear that the Region intended these decisions to be final agency actions. To prevent prejudice stemming from any resulting confusion, EPA is publishing this **Federal Register** notice that the Agency considers those actions final agency actions. Therefore, those regional approvals of state draft or final permits as ICSs, that were initially issued without seeking public comment, are final decisions representing final agency actions for the purpose of judicial review as of the date of publication of this notice. EPA believes the 120-day judicial review period in CWA section 509(b)(1) will start with the publication of this notice.

2. After a Disapproval

After EPA makes a final disapproval decision, the state still may draft a permit that satisfies EPA's reasons for disapproving the state's initial ICS. Where EPA has disapproved a state's initial ICS (or the state's failure to submit an ICS) and the state subsequently drafts an NPDES permit that EPA determines to be an acceptable ICS, EPA intends to revise its disapproval decision and issue an approval decision. Because there is uncertaintly with respect to which path will be taken and because further EPA action is contemplated, EPA believes that its disapproval decision would not be directly reviewable. (See the discussion of this issue below at B. 2.)

EPA's revised approval decision would constitute final agency action unless EPA solicits public comment on the approval, in which case final agency action would occur when the Agency issues a decision after considering public comment.

B. EPA—Issued Permits

1. In Unauthorized States

Where EPA is the permit issuing authority, EPA's action in establishing the ICS is not final agency action until EPA's administrative review process regarding the underlying NPDES permit is complete. 40 CFR 124.91(e). Until that time, the Agency will not have made any final determination regarding what limits must be included in the permit that will serve as the ICS.[2] Therefore, a permittee or other interested party in a state not authorized to issue permits must exhaust its administrative remedies on the permit before it can obtain judicial review of any EPA decision regarding the permit limitations including EPA's actions under section 304(1). (This same reasoning would apply to any permit where EPA is the permitting authority, *e.g.*, where EPA has assumed permit issuance authority under section 402(d).) This view has support in a recent decision of the Fourth Circuit Court of Appeals, *Champion Int'l Corp.* v. *United States Environmental Protection Agency.* No. 89-2463 (4th Cir. March 12, 1990). In that case the court dismissed as premature a challenge to EPA's ICS for Champion where EPA has not yet completed the full administrative process on the permit.

2. In Authorized States

Similarly, where EPA disapproves an authorized state's ICS and EPA subsequently issues the permit to the discharger, it is EPA's position that judicial review of EPA's action is not appropriate until EPA takes final action on the underlying permit. Thus, EPA's disapproval would never, by itself, constitute reviewable final Agency action.

Until EPA completes the administrative review process, the Agency will not have taken a definitive position regarding what limitations are necessary and sufficient to meet water quality standards. When EPA is issuing the permit, it will ultimately make only a single decision, *i.e.*, that the limitations in the final permit are necessary and sufficient to meet water quality standards. Where EPA is making both of these findings (*i.e.*, is the permitting authority), neither will be definitive until the other is made. Therefore, the Agency's tentative decisions regarding the limitations that are appropriate will not be final agency action until the end of the permitting process, including the administrative appeal processes. This view was recently endorsed in a case in which the litigant challenged EPA's initial disapproval of an ICS. *Westvaco Corp.* v. *United States Environmental Protection Agency, et al.*, Nos. 89-2180, 89-2181, slip op. at 15 (4th Cir. Feb. 13, 1990). In addition EPA's position regarding when final agency action on disapprovals of ICSs occurs is consistent with the Agency's position regarding the finality of permit objections under section 402(d). *See Champion Int'l Corp.* v. *EPA*, 850 F.2d 182 (4th Cir. 1988); *American Paper Institute* v. *EPA*, 890 F.2d 873 (7th Cir. 1989).

II. Review of ICS Decisions in Federal Court

As discussed above, it is the Agency's position that any judicial challenge to ICS-related decisions must be filed in the courts of appeals pursuant to section 509(b)(1)(G) of the CWA.[3] EPA's position that its approvals of state ICSs, if judicially reviewable, would be reviewable in the courts of appeals under section 509(b)(1)(G) of the Clean Water Act differs from the statement made in the preamble to the section 304(1) regulation. See 54 FR 23895. However, for the following reasons EPA believes challenges to EPA's approval of state ICSs must be brought in the courts of appeals.

Section 509(b)(1)(G) allows review in the courts of appeals of the Administrator's action "in promulgating an individual control strategy under section 304(1)." The use of the term "promulgating" to describe EPA actions on ICSs is ambiguous because there is no action required under section 304(1) that is expressly described as "promulgation." Furthermore, the legislative history does not specify what actions Congress intended to be reviewed in the courts of appeals. Section 304(1) speaks of disapprovals, which may be followed by additional state or federal action, and of approvals, which may be followed by additional state action. All of these actions are federal actions with legal effect that may appropriately be categorized as "promulgations."

EPA believes that it would create an irrational bifurcation of review between federal courts of appeals and district courts to interpret section 509(b)(1)(G) to grant the courts of appeals jurisdiction to review some, but not all, federally reviewable final EPA actions on ICSs. The reasoning of the Supreme Court in *Crown Simpson Pulp Co.* v. *Costle*, 445 U.S. 193 (1980), supports this view. In *Crown Simpson*, the Court held that

[2] Just as an EPA-issued permit's status as an ICS does not change the timing of judicial review of the permit, where ICS is part of a record of decision under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) the ICS is not subject to review any differently from other records of decision under CERCLA.

[3] Review of listing decisions is discussed separately in section III.

where the effect of an EPA permit objection was to deny the issuance of the permit, review should be in the courts of appeals under section 509(b)(1)(F) in part to avoid allowing review of similar actions in different courts depending on whether EPA or the state is the permit-issuing authority. A similar result should be reached regarding EPA's decisions under section 304(1). If, for example, review of EPA action were allowed under section 509(b)(1)(G) only if EPA disapproved an ICS and issued the underlying permit, then jurisdiction of the courts of appeals would be dependent "on the fortuitous circumstance of whether the State in which the case arose" issues the permit. *Crown Simpson*, 445 U.S. at 197–98. Similarly, if approvals could be challenged in district court and disapprovals in the courts of appeals, then an approval that was remanded by the district court could be re-litigated in a court of appeals if it subsequently became a disapproval. EPA does not believe that Congress intended to create such a system.

III. Finality and Reviewability of Listing Decisions

Unlike decisions related to ICSs, decisions regarding lists do not fall within the ambit of section 509(b)(1). Nonetheless, because of the amount of interest that has been expressed in these lists, the Agency is announcing its position on the reviewability of EPA approvals of state listing decisions, and EPA's decisions to list water segments on the lists required by section 304(1)(1)(B) ("B lists") and dischargers on the section 304(1)(1)(C) lists ("C lists"). Initial listing decisions were, for the most part, made in June of 1989. These decisions included both approvals and disapprovals of state listings as well as the identification of the waters EPA expected to add to or delete from the lists. (Referred to below as "listing decisions.") At that time EPA requested comments on most of its listing decisions.

EPA will provide notice of its responses to comments, along with any revisions to the B and C lists, in most cases, by June of 1990. Although these lists will represent EPA's decisions regarding listing (and may be called "final lists" or "final agency actions" in some contexts, see *e.g.* 54 FR 23894), EPA does not believe that decisions to include waters or dischargers on lists are reviewable final agency actions within the meaning of the Administrative Procedure Act or are otherwise ripe for review.[4]

The listing of a water segment or a point source identifies that segment or point source as one that EPA or the state expects will need additional controls in order to attain and maintain water quality standards. It is not until the permit process is completed, however, that a definitive determination is made regarding what limitations, if any, will be necessary, and it is only through permit limitations that dischargers are obliged to act. Therefore, listing a facility has no concrete impact on the facility; only the modification of permit limitations does.

Accordingly, EPA believes that the basis for a determination to list a water segment or discharger is not ripe for review until EPA changes a permit on that basis. When the state issues the modified permit, the finding that additional limitations are necessary would only be reviewable in a state forum. In addition, because limitations are only imposed through permits, where EPA does not issue the permit, a discharger would not have standing to challenge EPA's decision because any harm suffered would not be traceable to EPA nor could a court reviewing the listing remedy limitations that a discharger claimed were unnecessarily stringent. Finally, EPA believes the statute's specific allowance for review of the promulgation of ICSs, but not of the lists, indicates that the intermediate steps leading to permit modifications, including the listing or approval of listing, were only intended for review at the end of the process—when the permit is finalized.

The section 304(1) listing process is an important step in the development of water quality-based limitations in permits and thus in ensuring that water quality standards for toxic pollutants are met. The inclusion of a water segment or a facility on a list does not, however, impose obligations on dischargers and is therefore not reviewable.

IV. Effect of Today's Notice

Today's notice is not a legislative rule binding on particular parties; instead, it simply provides persons affected by EPA's actions a clarification of the Agency's position regarding when and where EPA's actions under section 304(1) of the CWA may be judicially reviewable. Accordingly, this notice is an interpretative rule which is exempt from the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(b) and from the requirement that publication of the rule occur not less than 30 days before its effective date, 5 U.S.C. 553(d).

Dated: June 15, 1990.

F. Henry Habicht,

Deputy Administrator.

[FR Doc. 90-14903 Filed 6-26-90; 8:45 am]

BILLING CODE 6560-50-M

[4] The discussion below does not address challenges to EPA's actions based on EPA's failure to list specific waters.

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40 CFR Part 180

[PP 8F3579/R1081; FRL-3766-2]

Pseudomonas Fluorescens EG-1053; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a permanent exemption from the requirement for a tolerance for residues of the biofungicide *Pseudomonas fluorescens* EG-1053 in or on cottonseed and cotton forage. This exemption was requested by Ecogen, Inc.

DATES: This regulation becomes effective June 27, 1990.

ADDRESSES: Written objections, identified by the document control number, [PP 8F3579/R1081], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., Sw., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Susan T. Lewis, Product Manager (PM) 21, (H7505C), Registration Division, Environmental Protection Agency, 401 M St., Sw., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1900.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 25, 1990 (55 FR 17460), EPA issued a proposed rule that gave notice that Ecogen, Inc., 2005 Cabot Blvd. West, Langhorn, PA 19047-1810, had submitted pesticide petition (PP) 8F3579 to EPA proposing to amend 40 CFR part 180 by establishing a regulation to exempt from the requirement of a tolerance the residues of the biofungicide *Pseudomonas fluorescens* EG-1053 in or on the raw agricultural commodity cotton. In the **Federal Register** of February 24, 1988 (53 FR 5458), it was announced that Ecogen, Inc., had amended PP 8F3579 to replace cotton specifically with cottonseed and cotton forage for exemption from the requirement of a tolerance. Ecogen's strain of the bacterium *Pseudomonas*

fluorescens was isolated from soil in Mississippi and has not been genetically altered. This microorganism is a natural soil isolate and has not been altered or improved. Microorganisms known as *pseudomonas fluorescens* constitute a rather diverse complement of bacteria that occur in both soil and aquatic habitats. They can be isolated from these sources using enrichment with appropriate media. The use of the biofungicide is for control of the *Pythium/Rhizoctonia* seedling disease complex of cotton.

A rule was published in the **Federal Register** of March 10, 1988 (53 FR 7739), that established an exemption from the requirement for a tolerance for a period of 2 years after the date of signature. The Agency required various studies to be submitted prior to determining whether the issuance of a permanent exemption would be appropriate. These studies were discussed in the proposed rule of April 25, 1990 (55 FR 17460).

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

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

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

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

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

List of Subjects in 40 CFR Part 180

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

Dated: June 11, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

§ 180.1088 [Amended]

2. In § 180.1088 *Pseudomonas fluorescens EG-1053; exemption from the requirement of a tolerance*, by removing the last sentence, which reads as follows: "This rule will expire on March 2, 1990."

[FR Doc. 90-14899 Filed 6-26-90; 8:45 am]

BILLING CODE 6560-50-D

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40 CFR Part 761

[OPTS-62059C; FRL 3770-1]

Polychlorinated Biphenyls; Notification and Manifesting for PCB Wastes Activities; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA issued final amendments to its PCB disposal and storage regulations in the Federal Register of December 21, 1989 (54 FR 52716). EPA has discovered several technical errors in these amendments. This document corrects those errors.

EFFECTIVE DATES: These corrections are effective June 27, 1990.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Rm. E-543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency promulgated amendments to its disposal and storage requirements for PCBs under section 6(e)(1) of the Toxic Substances and Control Act in the December 21, 1989 issue of the **Federal Register** (54 FR 52716). These amendments contained several inadvertent errors which are being corrected in this document. Also, for purposes of clarification, two technical amendments are included in this document.

The corrections and technical amendments are discussed below.

The definitions section (§ 761.3) is being corrected by amending the definition for "Commercial storer of PCB waste" to clarify the meaning of the phrase "exceeds 500 gallons of PCBs." The word "liquid" is being inserted into the phrase such that the phrase will now read "exceeds 500 liquid gallons of PCBs."

A technical amendment is being made to § 761.65, storage for disposal, by changing the references in paragraph (i)(3) from "paragraph (d)(2)(i) and (d)(2)(ii)," to correctly read "paragraph (i)(2)(i) and (i)(2)(ii)."

Section 761.180 is being corrected to bring the regulation in line with EPA's intent and meaning as stated in the preamble to the notification and manifesting rule (54 FR 52729, December 21, 1989) as follows:

1. In paragraph (a)(2)(ii)(C), the phrase "the first date material was placed in each PCB Container for disposal," is being corrected to read "the first date material placed in each PCB Container was removed from service for disposal."

2. In paragraph (a)(2)(ii)(D), the phrase "the first date a PCB Article was placed into each PCB Article Container for disposal," is being corrected to read "the first date a PCB Article placed in each PCB Article Container was removed from service for disposal." The phrase "the total weight of the PCB Articles in kilograms in each PCB Article Container," is being removed because it is a duplication.

3. In paragraph (b)(2)(ii)(A), the phrase "the first date PCB waste was placed in the tanker or truck for disposal," is being corrected to read "the first date PCB waste placed in the tanker or truck was removed from service for disposal."

4. In pargraph (b)(2)(ii)(C), the phrase "the first date PCB waste was placed in each PCB Container for disposal," is being corrected to read "the first date PCB waste placed in each PCB Container was removed from service for disposal." The phrase "the date it was received at the facility,"is being added. This phrase was inadvertently omitted from paragraph (b)(2)(ii)(C).

5. In paragraph (b)(2)(ii)(D), the phrase "the first date a PCB Article was placed in each PCB Article Container for disposal," is being corrected to read "the first date a PCB Article placed in each PCB Article Container was removed from service for disposal." The phrase "the date it was received at the facility," is being added. This phrase

was inadvertently omitted from paragraph (b)(2)(ii)(D).

6. Paragraph (b)(2)(iii) is corrected by changing the phrase "paragraph (b)(2)(ii)(A) through (B)(2)(ii)(E)," to read "paragraph (b)(2)(ii)(A) through (b)(2)(ii)(E)."

Finally, § 761.215 is being corrected in paragraph (d)(1) to change the phrase "date more than 9 months," to read "date within 9 months." The phrase "date more than 9 months" is clearly in error. EPA indicated in the preamble to the manifesting rule that a generator or commercial storer would be presumed to be in compliance with the 1-year storage limitation if it could demonstrate that the storage period prior to delivery for disposal did not exceed 9 months (54 FR 52732, December 21, 1989).

This document contains corrections and technical amendments only and does not require notice and comment, 5 U.S.C. 553.

Dated: June 20, 1990.

Charles L Elkins,

Director, Office of Toxic Substances.

Accordingly, 40 CFR part 761 appearing in the **Federal Register** issue of December 21, 1989 (54 FR 52716) is corrected as follows:

PART 761—[AMENDED]

1. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614, and 2616.

2. In § 761.3, on page 52745, the definition for the "Commercial storer of PCB waste" is correctly added to read as follows:

§ 761.3 Definitions.

* * * * *

Commercial storer of PCB waste means the owner or operator of each facility which is subject to the PCB storage facility standards of § 761.65, and who engages in storage activities involving PCB waste generated by others, or PCB waste that was removed while servicing the equipment owned by others and brokered for disposal. The receipt of a fee or any form of compensation for storage services is not necessary to qualify as a commercial storer of PCB waste. It is sufficient under this definition that the facility stores PCB waste generated by others or the facility removed the PCB waste while servicing equipment owned by others. A generator who stores only the generator's own waste is subject to the storage requirements of § 761.65, but is not required to seek approval as a commercial storer. If a facility's storage of PCB waste at no time exceeds 500 liquid gallons of PCBs, the owner or operator is not required to seek approval as a commercial storer of PCB waste.

* * * * *

3. In § 761.65, on page 52749, paragraph (i)(3) introductory text is correctly added to read as follows:

§ 761.65 Storage for disposal.

* * * * *

(i) * * *

(3) In order to qualify for the exemption in paragraph (i)(2)(i) and (i)(2)(ii) of this section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

* * * * *

4. In § 761.180, on page 52750, paragraphs (a)(2)(ii)(C), (a)(2)(ii)(D), the introductory text of paragraph (b)(2)(ii), paragraph (b)(2)(ii)(A), (b)(2)(ii)(C), (b)(2)(ii)(D), and (b)(2)(iii), are correctly revised to read as follows:

§ 761.180 Records and monitoring.

* * * * *

(a) * * *

(2) * * *

(ii) * * *

(C) A unique number identifying each PCB Container, a description of the contents of each PCB Container, such as liquid, soil, cleanup debris, etc., including the total weight of the material in kilograms in each PCB Container, the first date material placed in each PCB Container was removed from service for disposal, and the date each PCB Container was placed in transport for off-site storage or disposal, and the date of disposal (if known).

(D) A unique number identifying each PCB Article Container, a description of the contents of each PCB Article Container, such as pipes, capacitors, electric motors, pumps, etc., including the total weight in kilograms of the content of each PCB Article Container, the first date a PCB Article placed in each PCB Article Container was removed from service for disposal, and the date the PCB Article Container was placed in transport for off-site storage or disposal, and the date of disposal (if known).

* * * * *

(b) * * *

(2) * * *

(ii) For each manifest generated or received by the facility during the calendar year, the unique manifest number and the name and address of the facility that generated the manifest and the following information:

(A) For bulk PCB waste (*e.g.*, in a tanker or truck), its weight in kilograms, the first date PCB waste placed in the tanker or truck was removed from service for disposal, the date it was received at the facility, the date it was placed in transport for off-site disposal (if applicable), and the date of disposal (if known).

* * * * *

(C) The unique number assigned by the generator identifying each PCB Container, a description of the contents of each PCB Container, such as liquid, soil, cleanup debris, etc., including the total weight of the PCB waste in kilograms in each PCB Container, the first date PCB waste placed in each PCB Container was removed from service for disposal, the date it was received at the facility, the date each PCB Container was placed in transport for off-site storage or disposal (as applicable), and the date the PCB Container was disposed of (if known).

(D) The unique number assigned by the generator identifying each PCB Article Container, a description of the contents of each PCB Article Container, such as pipes, capacitors, electric motors, pumps, etc., including the total weight in kilograms of the PCB waste in each PCB Article Container, the first date a PCB Article placed in each PCB Article Container was removed from service for disposal, the date it was received at the facility, the date each PCB Article Container was placed in transport for off-site storage or disposal (as applicable), and the date the PCB Container was disposed (if known).

* * * * *

(iii) For any PCB waste disposed at a facility that generated the PCB waste or any PCB waste that was not manifested to the facility, the information required under paragraph (b)(2)(ii)(A) through (b)(2)(ii)(E) of this section.

* * * * *

5. In § 761.215, on page 52756, paragraph (d)(1) is correctly added to read as follows:

§ 761.215 Unmanifested waste report.

* * * * *

(d) * * *

(1) The generator or commercial storer transferred the PCBs or PCB Items to the disposer of PCB waste on a date within 9 months from the date of removal from service for disposal of the affected PCBs or PCB Items, as indicated on the manifest or continuation sheet; and

* * * * *

[FR Doc. 90-14796 Filed 6-26-90; 8:45 am]

BILLING CODE 6560-50-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6783

[CA-940-00-4214-10; CACA 26208]

Partial Revocation of Secretarial Order Dated January 14, 1927; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes the Secretarial Order dated January 14, 1927, insofar as it affects 40 acres of land withdrawn for Powersite Classification No. 163. The land is no longer needed for the purpose for which it was withdrawn. This action will open 40 acres to surface entry to permit consummation of a Bureau of Land Management land exchange. The land has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: July 27, 1990.

FOR FURTHER INFORMATION CONTACT: Lavonia Silva, BLM California State Office, room E-2845, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, 916-978-4820.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order dated January 14, 1927, which withdrew public land for Powersite Classification No. 163 is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 23 N., R. 14 E.,
Sec. 26, NE¼NW¼.

The area described contains 40 acres in Plumas County.

2. At 10 a.m. on July 27, 1990, the land described in paragraph 1 shall be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, any segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 27, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: June 20, 1990.

David C. O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-14869 Filed 6-26-90; 8:45 am]

BILLING CODE 4310-40-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

45 CFR Part 402

RIN 0970-AA85

State Legalization Impact Assistance Grants

AGENCY: Family Support Administration, HHS.

ACTION: Final rule with comments.

SUMMARY: This rule amends the regulation implementing the State Legalization Impact Assistance Grants (SLIAG), 45 CFR part 402. This action changes the date by which States' Fiscal Year 1991 SLIAG applications are due from July 15, 1990 to October 1, 1990, and the deadline by which States' FY 1991 applications must be approvable by the Secretary from October 1, 1990 to December 15, 1990. This change gives States additional time to establish the actual amounts of costs reimbursable with SLIAG grant funds.

DATES: *Effective:* Final rule effective June 27, 1990. *Comments:* Comments must be received on or before July 27, 1990.

ADDRESSES: Comments may be mailed to Division of State Legalization Assistance, Office of Refugee Resettlement, Family Support Administration, 370 L'Enfant Promenade SW., 6th floor, Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Norman L. Thompson (Director), 202-252-4571 (FTS 252-4571).

SUPPLEMENTARY INFORMATION: The State Legalization Impact Assistance Grant (SLIAG) regulation at 45 CFR part 402.43 currently requires that States submit their applications for FY 1991 funds by July 15, 1990, and that those applications be approvable by the Secretary of Health and Human Services by October 1, 1990. This rule changes those dates to October 1, 1990 and December 15, 1990, respectively.

We are taking this action for the following reasons:

—Our review of States' applications and end-of-year actual cost reports indicates that many States need additional time to complete documentation of actual costs in some of the programs eligible for SLIAG reimbursement.

—A number of States have experienced delays in executing contracts to access the Department's SLIAG Cost Documentation System (CDS). CDS is a computer matching system that allows States to establish the amount of SLIAG-reimbursable costs in a simple, cost-effective manner.

—The Department must, by order of the General Accounting Office, recompete the contract that provides support services for SLIAG. The transition from the current contractor to a new contractor likely will occur this summer. The Department would not be in a position to review States' applications in a timely and efficient manner during this transition.

Because the amendments set out in this rule pertain to agency procedure or practice under section 553(b) of the Administrative Procedure Act, we have dispensed with a Notice of Proposed Rulemaking. We will consider any comments received and, if necessary, publish another rule.

We have consulted with representatives of State agencies administering the SLIAG program and have determined that this change will not disadvantage States.

Regulatory Procedures

In accordance with 5 U.S.C. 605(b), the Secretary certifies that this rule does not have a significant adverse economic impact on small business entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

Paperwork Reduction Act

This rule imposes no new reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

(Catalogue of Federal Domestic Assistance Program No. 13.786, State Legalization Impact Assistance Grants)

List of Subjects in 45 CFR Part 402

Education, Grant programs—education, Grant programs—health, Grant programs—social programs, Health care, Immigration, Immigration Reform and Control Act, Public assistance programs, Reporting and recordkeeping requirements.

Dated: April 27, 1990.

Jo Anne B. Barnhart,

Assistant Secretary, Family Support Administration.

Approved: April 27, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, 45 CFR part 402 is amended as follows:

PART 402—STATE LEGALIZATION IMPACT ASSISTANCE GRANTS

1. The authority citation for part 402 is revised to read as follows:

Authority: 8 U.S.C. 1255a note, as amended.

2. Section 402.43 is amended by revising the second sentence in paragraph (a) and the second sentence in paragraph (b) to read as follows:

§ 402.43 Application deadline.

(a) * * * Applications for Federal fiscal years 1989, 1990, and 1991 must be received no later than July 15, 1988, October 1, 1989, and October 1, 1990, respectively. * * *

(b) * * * In order to receive funds under this part for FY 1989, FY 1990, and FY 1991, a State's application must be approvable by the Secretary by October 1, 1988, December 15, 1989, and December 15, 1990, respectively. * * *

* * * * *

[FR Doc. 90-14658 Filed 6-26-90; 8:45 am]

BILLING CODE 4150-04-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-526; RM-6974, RM-7014]

Radio Broadcasting Services; Golconda and Murphysboro, IL; Lutesville, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 286B1 for Channel 285A at Murphysboro, Illinois, and modifies the license of Station WTAO(FM) to specify operation on the higher class channel. It also substitutes Channel 232A for vacant but applied for Channel 286A at Golconda, Illinois, and substitutes Channel 281A for vacant but applied for Channel 286A at Lutesville, Missouri, at the request of C R Broadcasting, Inc., and William L. Moir. See 54 FR 49779, December 1, 1989. Channel 286B1 can be allotted to Murphysboro, Illinois, in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.4 kilometers (7 miles) southeast, in order to avoid a short-spacing to the construction permit site for Station WBVN, Channel 283A, Carrier Mills, Illinois. The coordinates for Channel 286B1 at Murphysboro are North Latitude 37-40-35 and West Longitude 89-16-32. Channel 232A can be allotted to Golconda, Illinois, in compliance with the Commission's minimum distance separation requirements at the application site of William Moir (BPH-890315MG) with a site restriction of 2.7 kilometers (1.7 miles) north. The coordinates for Channel 232A at Golconda are North Latitude 37-23-32 and West Longitude 88-29-21. Channel 281A can be allotted to Lutesville, Missouri, in compliance with the Commission's minimum distance separation requirements. The coordinates for Channel 281A at Lutesville are North Latitude 37-19-00 and West Longitude 89-57-30. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 6, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-526, adopted June 8, 1990, and released June 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—AMENDED

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Illinois by amending the entry for Murphysboro by adding Channel 286B1 and removing Channel 285A and by amending the entry for Golconda, by adding Channel 232A and removing Channel 286A. In addition, the entry for Lutesville, Missouri, is amended by adding Channel 281A and removing Channel 286A.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-14930 Filed 6-26-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 501

Organization and Delegation of Powers and Duties; Delegation to the Chief Counsel

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends the existing authority under which the Chief Counsel may compromise civil penalty settlements in the amounts of $5,000 or less for violations of the National Traffic and Motor Vehicle Safety Act and the Motor Vehicle Information and Cost Savings Act, by increasing the amount to $10,000.

EFFECTIVE DATE: June 27, 1990.

FOR FURTHER INFORMATION CONTACT: Kenneth N. Weinstein, Assistant Chief Counsel for Litigation, NHTSA, 400 7th Street, SW., Washington, DC 20590 (202-366-5263).

SUPPLEMENTARY INFORMATION: On August 31, 1981 (46 FR 43687), NHTSA published an amendment to 49 CFR 501.8(d)(2), delegating to the Chief Counsel the authority of the Administrator to compromise civil penalties in the amount of $5,000 or less. The Administrator's authority to compromise civil penalties originates in the National Traffic and Motor Vehicle Safety Act and titles I and IV of the Motor Vehicle Information and Cost Savings Act. The justification for this delegation was that it formalized an existing practice, and a practice that had expedited agency enforcement actions.

Upon review, NHTSA has concluded that agency enforcement actions would be further enhanced by an increase in the amount under which the Chief Counsel may compromise civil penalties. An increase to $10,000 will afford the Chief Counsel greater flexibility in civil penalty settlement negotiations without the administrative necessity of consulting with and obtaining the approval of the Administrator on relatively less severe infractions of the statutes and regulations that NHTSA administers. The Administrator's approval would be obtained on all settlements exceeding $10,000. Accordingly, 49 CFR 501.8(d)(2) is being amended to increase the Chief Counsel's settlement authority to sums not exceeding $10,000.

PART 501—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

This amendment relates to matters of agency reorganization and procedure and may therefore be issued without opportunity for notice and comment.

§ 501.8 [Amended]

In consideration of the foregoing, paragraph (d)(2) of § 501.8 in title 49, Code of Federal Regulations, is amended by changing the figure "$5,000" to "$10,000."

Authority: 49 CFR 1.50.

Issued on: June 21, 1990.

Jerry Ralph Curry,

Administrator.

[FR Doc. 90-14885 Filed 6-26-90; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 91046-0006]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of closure rescission and groundfish reapportionments; request for comments.

SUMMARY: NOAA announces that the closure of the joint venture processing (JVP) flatfish fishery in the Bering Sea and Aleutian Islands area (BSAI) is rescinded and that certain groundfish specifications are reapportioned to JVP. This action is necessary to assure optimum use of groundfish in the BSAI. It is intended to promote objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands area (FMP).

DATES: Effective 12 noon Alaska local time (ALT) June 24, 1990. Comments on the groundfish reapportionments to JVP will be accepted through July 9, 1990.

ADDRESSES: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, or be delivered to room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Jessica Gharrett, (Fishery Management Biologist, NMFS), 907-586-7229.

SUPPLEMENTARY INFORMATION: The FMP is implemented by rules appearing at 50 CFR 611.93 and part 675 under authority of the Magnuson Fishery Conservation and Management Act. The FMP controls incidental catches (or "bycatch") of certain prohibited species that are caught incidentally with groundfish catches. One of these prohibited species is Pacific halibut. Under § 675.21(b), primary and secondary PSC allowances of 660 metric tons (mt) and 800 mt, respectively, have been assigned to the JVP flatfish fishery. Under § 675.21(c)(3)(iv), the Secretary of Commerce published a notice in the **Federal Register** closing the BSAI to the JVP flatfish fishery from March 5, 1990, for the remainder of the year after NMFS determined that JVP vessels had caught their secondary Pacific halibut PSC allowance of 800 mt (55 FR 8954, March 9, 1990).

Subsequent analysis of JVP catch information indicates that only 776 mt of the 800 mt JVP halibut allowance has been caught. Therefore, the Secretary is rescinding the closure, effective June 24, 1990. Subject to other relevant provisions of § 611.93 and part 675, the JVP flatfish fishery will be allowed to continue until an additional halibut bycatch amount reaches 24 mt, at which time the Secretary will publish a notice in the **Federal Register** prohibiting, for the remainder of the fishing year, the receipt by foreign vessels caught in the BSAI that is composed of 20 percent or more yellowfin sole, "other flatfish" and rock sole in the aggregate.

The Secretary is also reapportioning groundfish to JVP as listed in Table 1. The reason for apportionments to JVP is to provide bycatch amounts for those species expected to be caught incidentally in the flatfish fishery. In determining the groundfish bycatch needs associated with the JVP flatfish fishery, the Secretary assessed the extent to which groundfish amounts specified as domestic annual processing (DAP) would be fully harvested by U.S. vessels. The Secretary determined 2,110 mt of Pacific cod, 300 mt of pollock, 2,500 mt of "other species," and 700 mt of arrowtooth flounder will accommodate existing shortfalls in existing JVP specifications and provide bycatch to support the JVP flatfish fishery. Under § 675.20(b)(1)(ii), the Secretary determined that 2,110 mt of Pacific cod and 700 mt of arrowtooth flounder currently apportioned to DAP will not be harvested by U.S. vessels participating in DAP operations during the remainder of the fishing year. The Secretary is reapportioning these amounts of Pacific cod and arrowtooth flounder to JVP from DAP. Additionally, he is apportioning 300 mt of pollock and 2,500 mt of "other species" from the non-specific reserve to JVP in accordance with § 675.20(b)(1)(i) to accommodate a shortfall and provide needed bycatch of "other species" to support the JVP flatfish fishery.

Classification

These actions are taken under §§ 675.20(b), and 675.21, and they comply with Executive Order 12291.

The Assistant Administrator for Fisheries, NOAA finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay the effective date of this notice. Immediate effectiveness of this notice, including reapportionments of groundfish to JVP, is necessary to benefit U.S. fishermen participating in JVP flatfish operations, which are coordinated with schedules of foreign processing vessels. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 675

Fish, Fisheries.

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

Dated: June 22, 1990.

Richard H. Schaefer,

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

TABLE 1—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF TAC [1]

		Current	This action	New
Arrowtooth Flounder	DAP	8,500	−700	7,800
TAC=8,533	JVP	33	+700	733
Pacific cod	DAP	192,950	−2,110	190,840
TAC=199,975	JVP	7,025	+2,110	9,135
Pollock (Bering Sea)	JVP	22,451	+300	22,751

TABLE 1—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF TAC [1]—Continued

		Current	This action	New
TAC=1,110,451, New TAC=1,110,751	RESERVES	252,298	−300	251,998
Other species				
TAC=6,084	JVP*	1,834	+2,500	4,334
New TAC=8,584	RESERVES	251,998	−2,500	249,498
Total (TAC=2,000,000)	DAP	1,495,320	−2,810	1,492,510
	JVP	252,382	+5,610	257,992
	RESERVES	252,298	−2,800	249,498

[1] All values are in metric tons.

[FR Doc. 90-14934 Filed 6-22-90; 2:07 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 124
Wednesday, June 27, 1990

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

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 9

[Docket No. 90-11]

Fiduciary Powers of National Banks and Collective Investment Funds; Investment of Funds

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency ("OCC") is proposing an amendment to its regulation governing the exercise of fiduciary powers by national banks. The amendment clarifies the standards which fiduciaries must meet when handling trust funds awaiting investment or distribution ("idle funds") and the policies and procedures associated with these standards. These revisions are necessary to eliminate ambiguities in the current regulation. The revisions will provide trust beneficiaries, bank officials, and regulators with one set of clear, comprehensible regulatory directives governing the investment of idle funds.

DATES: Comments must be received on or before August 27, 1990.

ADDRESSES: Comments should be sent to Docket No. 90-11, Communications Division, Fifth Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, DC 20219; Attention: Jackie England. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Horace Sneed, Attorney, Legal Advisory Services Division, (202) 447-1881.

SUPPLEMENTARY INFORMATION:

I. Background

A. 1980 Proposed Rule

In 1980, the OCC published a notice of proposed rulemaking which, *inter alia*, addressed the temporary investment by national bank fiduciaries of funds awaiting investment or distribution. 45 FR 71571 (October 29, 1980). At the time of the 1980 proposed rule, § 9.10(a) required that funds held in a fiduciary capacity by a national bank not be held uninvested or undistributed any longer than was reasonable for the proper management of the account.

The 1980 proposed rule permitted banks to invest such funds in the bank's own investment vehicles for a period in excess of 60 days only if: (1) The instrument creating the fiduciary relationship, prior court order, or local law [1] specifically authorized the retention of these funds in such deposits; (2) prior consent was obtained from the party having power to terminate the account or, if no such party existed, from all parties holding vested beneficial interests in the account, after full disclosure of all relevant facts, including the availability and rate of return of alternative investments outside the bank; or (3) the bank included in the file of each account so invested a written justification, updated at least once every 30 days, specifying in detail why the subject funds were properly designated as awaiting investment or distribution. In addition, the 1980 proposed rule required that after 365 days fiduciary funds could remain deposited in the bank pursuant only to restriction (1) or (2) above.

B. 1980 Proposed Rule Modified in Final Rule

Following the receipt of comments submitted during the comment period, the OCC decided not to adopt the specific requirements contained in the proposal. Instead, on June 25, 1982, the OCC issued a final rule (47 FR 27828), which revised § 9.10(a). The revised rule required that national banks which exercise fiduciary powers adopt and follow written policies and procedures, taking into consideration all relevant factors to ensure that "the maximum rate of return available for trust-quality, short-term investments" be obtained on funds awaiting investment or distribution, consistent with the requirements of the governing instrument and local law.

C. Banking Bulletin 83-57

It subsequently came to the OCC's attention that some banks might not have been investing idle funds as required by § 9.10(a), as modified. As a result, the OCC issued Banking Bulletin 83-57 ("BB-83-57") which clarified the OCC's policies with regard to bank management of funds awaiting investment or distribution. BB-83-57 indicated that the OCC's policies on the placement of idle funds would be applied to both income cash and principal cash in all accounts for which the bank had investment responsibility, whether the funds were invested in the fiduciary bank or in the investment vehicles of other institutions in the financial marketplace.

BB-83-57 further articulated the OCC's position that trustees not taking advantage of the many highly liquid, prudent, and competitive investment media available in the finanacial marketplace might have violated their fiduciary duty of making trust property reasonably productive. Banks were instructed to review their written internal procedures (*see* current § 9.10(a)) to ensure that these procedures were in compliance with their fiduciary responsibilities. Where noncompliance was found, banks would be expected to remedy the situation and compensate the appropriate parties.

The purpose of BB-83-57 was to put national banks on notice that banks which had improperly placed idle funds at rates of return less than the maximum rate for trust-quality, short-term investments are required to reimburse affected trust accounts in an amount equal to the difference between the amount of return received and the amount that should have been received, with interest. In addition, banks which were found to have improperly placed such funds might be required to notify all similarly situated trust account holders of the possibility of loss to the accounts and of their reimbursement rights.

II. Current Proposed Rule

To provide trust beneficiaries, bank officials, and regulators with one set of clear directives concerning the investment of idle funds, the OCC has decided to request comment on a further

[1] For purposes of part 9, "local law" is defined in 12 CFR 9.1(g) as "the law of the State or other jurisdiction governing the fiduciary relationship * * *"

revision of § 9.10. This proposed revision does the following:

1. Clarifies the role of local law in establishing the standard for the investment of trust funds awaiting investment or distribtution (§ 9.10(a));
2. Clarifies and further defines the rate of return which must be obtained (§ 9.10(b));
3. Establishes a standard for how soon idle funds must be made productive (§ 9.10(c));
4. Makes a minor change in wording and conforming paragraph letter redesignation in the provision requiring collateralization of idle funds deposited in the bank (§ 9.10(d)).

A. Role of Local Law (§ 9.10(a))

Current § 9.10(a) requires that a bank adopt policies and procedures for the investment of trust funds awaiting investment or distribution "consistent with the requirements of the governing instrument and local law."

The proposed revision of § 9.10(a) requires that funds awaiting investment or distribution be made "productive" [2] in trust-quality investments—

> [u]nless otherwise provided by specific reference in the governing instrument or by language in local statutory law which specifically refers to the investment of trust funds awaiting investment or distribution * * *.

This change is intended to eliminate much of the uncertainty or confusion which has arisen concerning the role of local law in establishing the standard for the investment of idle funds. The proposed revision reaffirms that, in establishing policies and procedures for the investment of idle funds, a national bank must defer to local statutory law (and to the governing instrument) in appropriate circumstances. Thus, a national bank exercising fiduciary powers within a given local jurisdiction is subject to local statutory law which specifically addresses the investment of idle funds. If neither local statutory law nor the governing instrument specifically addresses the investment of idle funds, a national bank must follow the standards in § 9.10 (a)–(c).

Under the proposed rule, judicial decisions or "case law," as opposed to statutory law, would not govern national bank investment of idle funds. Thus, for example, a judicial decision based on common law (*i.e.*, non-statutory) precedents which requires a bank to invest escrow funds held in trust within 6 months would not take precedence over the standards set forth in proposed § 9.10 (a)–(c) because the judicial decision is not statutory law and does not interpret statutory law specifically dealing with idle funds.

An exception would occur, however, when the case law interprets "language in local statutory law which specifically refers to the investment of trust funds awaiting investment or distribution * * *". *See* proposed § 9.10(a). If local statutory law specifically addresses the investment of trust funds awaiting investment or distribution, then both the statute and judicial decisions interpreting the statute would be applicable to national banks exercising fiduciary powers. For example, if a local statute dealing with the investment of trust funds specifically permits banks to hold idle funds uninvested for a given period of time, then the statute—and judicial decisions interpreting the statute—would apply to national banks.

This standard would, therefore, require deference only to local statutory law (and cases interpreting that law) which specifically address trust funds awaiting investment or distribution. The purpose of the standard is to prevent, or at least limit, the uncertainty and confusion which can arise from vague or ambiguous statutes as well as outdated cases. For example, a Rhode Island decision has permitted certain funds to be held in a fiduciary capacity without interest for a period of one year. *Almy* v. *Probate Court of Newport*, 30 A. 458 (1894). Such a case fails to take into account the current investment capabilities and practices of bank trust departments, which have access to technological and other developments in the marketplace.

The OCC is particularly interested in receiving comment on this proposed treatment of local law in establishing policies and procedures for the investment of idle funds.

B. Competitive Market Rate (§ 9.10(b))

The current regulation requires that, in the investment of funds awaiting investment or distribution, bank trust departments obtain the maximum rate of return for short-term, trust-quality investment, taking into consideration all relevant factors. This has been revised in the proposed rule to provide clearer guidance. The term "maximum rate" has been changed in the proposed rule to "a competitive market rate." This change is intended to acknowledge the fact that bank investment of idle funds must be considered in the context of the envolving competitive environment in the marketplace and, further, that a "competitive market rate" involves the exercise of prudent judgment and the consideration of all relevant factors. The proposed rule introduces the term "productive" as a shorthand method of referring to the attainment of a competitive market rate. Thus, when funds awaiting investment or distribution are earning a competitive market rate, they are productive. The term appears in proposed § 9.10 (a), (b), and (c).

The current regulation provides that among the relevant factors to be considered in determining the bank's policy in making idle funds productive are the "anticipated return that could be obtained" as well as the "cost" and "anticipated need" for the funds. The proposed rule continues to require the consideration of cost and anticipated need. It also explicitly recognizes that the requirements of the governing instrument, the duration of the investment, and "other relevant factors" must be taken into consideration in setting investment policy. A significant change is the breakout of the "anticipated return" into two factors: (1) The current rates payable for funds in the marketplace, including but not limited to commercial money market rates, and (2) the range of investment choices. The purpose of these changes is to ensure that, in determining the competitive market rate, the bank will consider all of the investment instruments and rates currently payable in the marketplace. Among the rates that should be considered are the money market rates paid by mutual funds and financial institutions.

C. When Idle Funds Must Be Made Productive (§ 9.10(c))

Proposed § 9.10(c) establishes a uniform federal standard for determining how soon a bank must make idle funds productive. These funds are to be invested "as expeditiously as possible." It is anticipated that, as a result of technological developments and other changes in the financial marketplace which have made the rapid investment of funds increasingly accessible to financial institutions, most national bank trust departments either are or will be able to make idle funds productive on the day of receipt or the next business day after receipt. In those cases in which same day or next day investment is not feasible, banks remain under an obligation to invest the funds as soon as possible. In no case shall banks permit funds to remain unproductive for more than five business days.

The OCC believes that this proposal for the rapid investment of idle funds reflects the current practice in many national bank trust departments.

[2] *See* discussion of the term "productive" in the following section.

Therefore, bank costs stemming from the implementation of this proposal should not be significant.

The OCC invites comments on this aspect of the proposed rule.

D. Collateralization of Funds Deposited in the Bank (§ 9.10(d))

The provision requiring the collateralization of idle funds deposited in a department of the bank remains unchanged in the proposed rule, except for the substitution of the words "the bank" for "it" in the first paragraph. The provision has been redesignated § 9.10(d) to conform to the other revisions in the proposed rule.

III. Comments

Comments are solicited on all aspects of the proposed regulation. Comments are especially invited: (1) On the role of local law in § 9.10(a) in establishing the standard for the investment of idle funds and (2) on the requirement in § 9.10(c) that idle funds to be made productive as expeditiously as possible.

IV. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Comptroller of the Currency certifies that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

V. Executive Order 12291

The OCC has determined that this proposed rule does not constitute a "major rule" within the meaning of Executive Order 12291. Consequently, a regulatory impact analysis is not required.

VI. List of Subjects in 12 CFR Part 9

National banks, Fiduciary powers, Collective investment funds.

VII. Authority and Issuance

For the reasons set forth in the preamble, part 9 of chapter I of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 9—[AMENDED]

1. The authority citation for part 9 is revised to read as follows:

Authority: 12 U.S.C. 92a; 12 U.S.C. 93a; and 12 U.S.C. 481.

2. Section 9.10 is revised to read as follows:

§ 9.10 Funds awaiting investment or distribution.

(a) Unless otherwise provided by specific reference in the governing instrument or by language in local statutory law which specifically refers to the investment of trust funds awaiting investment or distribution, each national bank exercising fiduciary powers shall ensure that funds awaiting investment or distribution are made productive (as provided in paragraph (b) of this section) in trust-quality investments, and shall adopt and follow written policies and procedures to accomplish this purpose.

(b) In order to make funds awaiting investment or distribution productive, the bank shall obtain a competitive market rate, taking into consideration the following factors:

(1) The current rates payable for funds in the marketplace, including but not limited to commercial money market rates;

(2) The range of investment choices,

(3) The appropriate duration of the investment,

(4) The cost of investing the funds,

(5) The anticipated need for the funds,

(6) The requirements of the governing instrument, and

(7) Any other relevant factors affecting the investment of the funds.

(c) Funds being held awaiting investment or distribution shall be made productive as expeditiously as possible. In no event shall such funds be held unproductive for more than five business days from the day of receipt.

(d) Funds held in trust by a national bank, including managing agency accounts, awaiting investment or distribution may, unless prohibited by the instrument creating the trust or by local law, be deposited in the commercial or savings or other department of the bank: *Provided,* That the bank shall first set aside under control of the trust department as collateral security:

(1) Direct obligations of the United States, or other obligations fully guaranteed by the United States as to principal and interest; or

(2) Readily marketable securities of the classes in which state banks exercising fiduciary powers are authorized or permitted to invest trust funds under the laws of the State in which such national bank is located; or

(3) Other readily marketable securities that qualify as investment securities pursuant to the OCC's Investment Securities Regulation, Part 1 of this Chapter. The securities so deposited or securities substituted therefor as collateral shall at all times be at least equal in face value to the amount of trust funds so deposited, but such security shall not be required to the extent that the funds so deposited are insured by the Federal Deposit Insurance Corporation. The requirements of this section are met when qualifying assets of the bank are pledged to secure a deposit in compliance with local law, and no duplicate pledge shall be required in such case.

Dated: June 21, 1990.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 90-14853 Filed 6-26-90; 8:45 am]

BILLING CODE 4810-33-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release No. 33-6869; File No. S7-12-90]

RIN: 3235-AD90

Summary Prospectuses

AGENCY: Securities and Exchange Commission.

ACTION: Rule proposal.

SUMMARY: The Commission today is publishing for comment proposals to amend the summary prospectus rule, Rule 431 under the Securities Act of 1933 (the "Securities Act"), by revising the issuer criteria for use of a summary prospectus, eliminating the requirement that a summary prospectus be on file five business days prior to use, and deleting the requirement that the exact form of each summary prospectus delivered to investors be filed with the Commission. As proposed, any registrant satisfying specified conditions would be permitted to use a summary prospectus in connection with a registered offering of securities. Further, a summary prospectus could be disseminated immediately after filing of the registration statement and summary prospectus with the Commission. Finally, the information requirements applicable to summary prospectuses are proposed to be amended to include a summary of management's discussion and analysis of the issuer's financial condition and results of operations and disclosure regarding the risks associated with investment in the securities being offered.

DATES: Comments should be received on or before September 15, 1990.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-6009. Comment letters should refer to File No. S7-12-90. All comments received will be available for public inspection and

copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Martin P. Dunn, Office of Chief Counsel, (202) 272-2573, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission today is publishing for comment amendments to rule 431 [1] of regulation C [2] under the Securities Act [3] that would broaden the rule's current issuer criteria to permit any registrant satisfying specified conditions to use the summary prospectus procedure. The proposals also are intended to permit immediate use of a summary prospectus filed with the Commission and to simplify the current filing requirements applicable to these prospectuses. Further, the Commission is proposing revisions to the informational requirements for summary prospectuses that would require disclosure with respect to risk factors and management's discussion and analysis of financial condition and results of operations.

I. Executive Summary

A recent inquiry was made as to the availability of the summary prospectus procedure in connection with a potential initial public offering where the preliminary prospectus would be several hundred pages long. Because of the anticipated length of the preliminary prospectus, expenses associated with soliciting indications of interest would make the offering costs substantial. Since the use of summary prospectuses could significantly decrease such cost, the parties expressed interest in using these procedures.

Following this request, the Commission undertook a review of the summary prospectus procedure of rule 431 to determine the appropriateness of extending the procedure to initial public offerings. As a result of this review, it appears that summary prospectuses can serve as a useful source of information that, due to their ease of preparation and distribution, may be beneficial to a registrant using a lengthy prospectus in connection with the offer and sale of securities. In light of both the significant administrative and civil remedies against the use of a deficient summary prospectus, as well as the prospectus delivery requirements under the Securities Act and the Securities Exchange act of 1934 (the "Exchange Act") [4] and the rules thereunder requiring delivery of either a prospectus subject to completion [5] or final section 10(a) prospectus,[6] the Commission believes it would be consistent with the protection of investors and the purposes of the Securities Act to expand the class of issuers eligible to use the rule.[7] Therefore, the Commission is today proposing for comment several amendments to rule 431.

Under the proposed issuer criteria, the rule would be available to any registrant other than a development stage company, provided that the registrant is not engaged in a "blank check offering" and has not defaulted on specific obligations since the end of its most recent fiscal year. The proposed criteria would further require that where a registrant is subject to the requirements of section 12 or 15(d) of the Exchange Act [8] ("reporting company"), it be timely in its filings under sections 13, 14 [9] or 15(d) for the twelve calendar months and any portion of the month immediately proceeding the filing of the registration statement (or such shorter period during which it has been subject to the reporting requirements of the Exchange Act).

In addition to the proposed expansion of the issuer criteria, the Commission is proposing to revise the rule's prospectus filing requirements in two respects. First, the current five business day pre-use filing requirement is proposed to be deleted, as pre-use filing does not appear necessary. Consequently, the proposed deletion would allow issuers to distribute a summary prospectus immediately after filing the registration statement and summary prospectus with the Commission.

Second, the Commission proposes to conform the summary prospectus filing requirements to the filing requirements applicable to other section 10 prospectuses.[10] Accordingly, while rule 431(g)(1) would continue to require that summary prospectuses be filed as part of a registration statement or amendment thereto, the proposed revisions would no longer require that the exact form be filed, as that appears unnecessary, and would restrict the filing requirement only to summary prospectuses delivered to investors which contain substantive changes from or additions to a summary prospectus previously filed as part of the registration statement.

It is further proposed that the information specifically required to be contained in summary prospectuses include disclosure regarding the risks associated with an investment in those securities and a summary of management's discussion and analysis of the issuer's financial condition and results of operations.

The proposals do not affect investor rights under the federal securities laws. Moreover, the proposals do not affect any person's obligation to deliver a preliminary or final prospectus under the Securities Act, the Exchange Act or the Commission's rules and regulations thereunder.[11]

II. Provisions Relating to Summary Prospectuses

A. Background of Summary Prospectus Rules

Under section 5(b)(1) of the Securities Act,[12] it is unlawful to use a prospectus after a registration statement has been filed unless it meets the requirements of Section 10 of the Securities Act. Section 10(b) [13] of the Securities Act authorizes the Commission to adopt rules and regulations permitting securities to be offered and sold by means of a prospectus which omits in part or summarizes information that must be set forth in a preliminary prospectus or the final Section 10(a) prospectus to be delivered prior to or with either a confirmation of sale or delivery of the securities.[14] Pursuant to this authority

[1] 17 CFR 230.431.

[2] 17 CFR 230.400—230.499.

[3] 15 U.S.C. 77a *et seq.*

[4] 15 U.S.C. 78a *et seq.*

[5] The term "prospectus subject to completion" refers either to a preliminary prospectus used in reliance on Rule 430 (17 CFR 230.430), or a prospectus used after the effective date of a registration statement that omits information in reliance on Rule 430A (17 CFR 230.430A), or a prospectus omitting information not yet known with respect to a delayed offering under Rule 415(a) (17 CFR 230.415(a)). In this release, a prospectus subject to completion will be referred to as a preliminary prospectus.

[6] 15 U.S.C. 77j(a).

[7] *See* "II.B. Prospectus Delivery Requirements, Administrative Remedies and Investor Rights" *infra* for a discussion of investor rights under the federal securities laws and the delivery requirements applicable to a preliminary and final Section 10(a) prospectus.

[8] 15 U.S.C. 78*l* and 78*o*(d).

[9] 15 U.S.C. 78n.

[10] *See* Rule 424 of Regulation C under the Securities Act (17 CFR 230.424) which sets forth the filing requirements for complete preliminary and final section 10(a) prospectuses.

[11] *See* "II.B. Prospectus Delivery Requirements, Administrative Remedies and Investor Rights" *infra.*

[12] 15 U.S.C. 77e(b)(1).

[13] 15 U.S.C. 77j(b). Section 10(b) was adopted as part of the 1954 amendments to the Securities Act (August 19, 1954, c. 667, Title I, S. 6, 68 Stat. 684).

[14] *See* sections 2(10) (15 U.S.C. 77b(10)) and 5(b)(2) (15 U.S.C. 77e(b)(2)) of the Securities Act. *See also* Exchange Act Rule 10b-10 (17 CFR 240.10b-10) which contains the timing and informational requirements of a confirmation of sale.

and to encourage dissemination of information to potential investors, the Commission, in 1956, adopted the summary prospectus procedure.[15] The purpose of a summary prospectus is to provide prospective investors with a condensed statement of the more important information contained in the registration statement so as to enable them to determine whether or not they would be interested in more complete information concerning the registrant and the securities being offered.[16]

As originally adopted, only issuers reporting under section 13 or 15(d) of the Exchange Act were eligible to use a summary prospectus.[17] The Commission, in proposing the summary prospectus rule, explained that the purpose of the issuer reporting standard was to restrict the use of summary prospectuses to issuers "which ha[d] been publishing information and financial statements meeting the Commission's disclosure standards."[18] Three years later the Commission proposed and subsequently amended the rule to permit the use of summary prospectuses by non-reporting registrants that met specified standards as to size, earnings, operating history and the prior publication of reports to shareholders.[19]

As part of the integrated disclosure system rulemaking project, the Commission, in 1982, adopted a more restrictive approach to the rule and limited its availability to seasoned reporting issuers.[20] Little public comment was received on the narrowing of the eligibility standards, reflecting in large part the lack of use of such prospectuses.

B. Prospectus Delivery Requirements, Administrative Remedies and Investor Rights

After filing of a registration statement, Securities Act section 5(b)(1) permits distribution of a prospectus complying with section 10 of the Act. A summary prospectus complying with rule 431 constitutes a Section 10 prospectus. Dissemination of a summary prospectus, however, does not obviate compliance with a person's obligation to deliver a final section 10(a) prospectus or to provide a prospectus pursuant to rule 15c2–8, where applicable.

Rule 15c2–8(b) under the Exchange Act[21] requires brokers and dealers participating in an offering of securities by an issuer not previously required to file reports pursuant to section 13(a) or 15(d) of the Exchange Act to deliver a copy of the latest preliminary or final Section 10(a) prospectus to any person who is expected to receive a confirmation of sale at least 48 hours prior to mailing of such confirmation. Rule 15c2–8 further requires the managing underwirter to take reasonable steps to assure that each participating broker-dealer is furnished with copies of each preliminary and final Section 10(a) prospectus.[22] Moreover, persons associated with a participating broker-dealer must have a copy of the prelimianry and final section 10(a) prospectus prior to soliciting orders.[23] The proposed revisions to rule 431 published today would not change these delivery requirements.[24]

In addition, a registrant using the summary prospectus procedure is required to provide a complete prospectus to any person upon request. The summary prospectus must prominently disclose the name, address and telephone number of the person or persons from whom a complete prospectus may be obtained.[25]

A final section 10(a) prospectus must accompany or precede either a confirmation[26] or delivery of securities for sale or after sale.[27] Further, any dealer effecting transactions in the immediate aftermarket for initial public offerings must comply with the prospectus delivery requirements of section 5(b).[28]

The Securities Act provides significant protections against the use of a deficient summary prospectus. While section 10(b) of the Securities Act provides that a summary prospectus filed with a registration statement shall not be deemed a part of such registration statement for the purposes of section 11 of that Act,[29] it authorizes the Commission to suspend the use of a defective summary prospectus.[30] This administrative remedy is a supplement to the Commission's stop order powers under section 8 of the Act.[31] Further, section 11 liability would continue to apply to material misstatements and omissions in a registration statement at the time of effectiveness, and the provisions of sections 12(2) and 17(a) of the Securities Act[32] apply to preliminary, section 10(a) final and summary prospectuses in the offer and sale of securities.

The Commission staff expects, at least initially, to select for review registration statements that contain a summary prospectus. The adequacy of the disclosure in the summary prospectus also will be considered in acting on requests for acceleration of the effective date of the registration statement.[33]

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[15] The Commission proposed the summary prospectus rule, then Rule 434A, in Release No. 33–3674 (August 13, 1956) and adopted the rule in Release No. 33–3722 (November 23, 1956). The rule was extended to investment companies in Release No. 33–5248 (May 9, 1972). As part of the adoption of the integrated disclosure system, Rule 434A was revised and renumbered Rule 431 (17 CFR 230.431) in 1982. *See* Release No. 33–6383 (March 3, 1982).

[16] Release No. 33–3722 (November 23, 1956).

[17] Release No. 33–3722 (November 23, 1956).

[18] Release No. 33–3674 (August 13, 1956).

[19] Release No. 33–4094 (June 11, 1959).

[20] The term "seasoned reporting issuers" in this release refers to companies that have been subject to the reporting requirements of section 12 or 15(d) of the Exchange Act, and are current in their filing obligations for at least thirty-six months immediately prior to the filing of a registration statement under the Securities Act.

[21] 17 CFR 240.15c2–8(b).

[22] *See* paragraphs (g) and (h) of Rule 15c2–8 [17 CFR 240.15c2–8(g) and 17 CFR 240.15c2–8(h)].

[23] *See* paragraphs (e) and (f) of Rule 15c2–8 (17 CFR 240.15c2–8(e) and 17 CFR 240.15c2–8(f)).

[24] Distribution of the preliminary prospectus also is considered in acting upon a request for acceleration of the effective date of a registration statement. *See* Rules 460 (17 CFR 230.460) and 461 (17 CFR 230.461) under the Securities Act.

[25] *See* paragraph (e) of Rule 431.

[26] *See* Section 2(10) and 5(b)(1) of the Securities Act.

[27] *See* Section 5(b)(2) of the Securities Act (15 U.S.C. 77e(b)(2)).

[28] *See* Section 4(3) of the Securities Act (15 U.S.C. 77d(3)) and Rule 174 thereunder (17 CFR 230.174). Under Rule 174, the prospectus delivery period applicable to reporting companies has been eliminated and, with respect to initial public offerings, shortened from 90 to 25 days if the securities being registered are either authorized for listing on a national securities exchange or for inclusion in an electronic interdealer quotation system sponsored and governed by the rules of a registered securities association. This shortened period is unavailable to securities of a non-reporting company to be traded in the "pink sheets" or the one-year pilot OTC Bulletin Board Display Service. *See* Release No. 34–27975A and note 51 therein.

[29] 15 U.S.C. 77k. Section 11 of the Securities Act imposes liability for material misstatements or omissions contained in a registration statement when it becomes effective. That section imposes strict liability on the issuer. Section 11 also imposes liability on a wide variety of other defendants, such as persons who signed the registration statement; directors of the issuer at the time the statement is filed, persons who consented to be named in the statement; experts who consented to be named in the statement, and underwriters.

[30] In pertinent part, section 10(b) states: "* * * The Commission may at any time issue an order preventing or suspending the use of a prospectus permitted under this subsection (b), if it has reason to believe that such prospectus has not been filed (if required to be filed as part of the registration statement) or includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which such prospectus is or is to be used, not misleading * * *

15 U.S.C. 77j(b).

[31] *See* sections 8(a) and (d) of the Securities Act (15 U.S.C. 77h(a) and (d)).

[32] 15 U.S.C. 77l(2) and 77q(a) respectively. *See also* section 10(b) of the Exchange Act (15 U.S.C. 78j(b)) and Rule 10b–5 thereunder (17 CFR 240.10b–5).

[33] *See* section 8(a) of the Securities Act (15 U.S.C. 77h(a)) and rule 461 thereunder.

III. Proposed Revisions to Rule 431

A. Issuer Eligibility Standards

Rule 431(a)[34] currently permits domestic issuers and foreign private issuers eligible to register securities offerings on Form F-2[35] to use a summary prospectus, subject to limitations regarding the reporting history of the registrant, the presence of enumerated defaults and the form used for registration of the securities. Specifically, a registrant must be a seasoned reporting issuer,[36] must have timely filed such reports for the twelve month period preceding the filing of the registration statement[37] and, since the end of its most recent fiscal year for which certified financial statements have been prepared and filed with the Commission, must not have had a default in dividend or sinking fund payments on preferred stock or on any installments for borrowed money or leases.[38] The rule further requires that the form of registration statement being used permit the use of a summary prospectus.[39]

As proposed, the current issuer eligibility criteria, other than those applicable to specified payment defaults and timely reporting, would be eliminated and replaced with two other criteria. The proposed criteria expand the rule's scope to include unseasoned issuers, subject to specific prohibitions against the use of summary prospectuses in "development stage company" and "blank check" offerings, as defined. Since no changes to the payment default or timely filing criteria are proposed, the rule will continue to require compliance with these criteria.

1. Development Stage Companies and Blank Check Offerings

Under the proposed criteria the summary prospectus procedure would be available to any registrant engaging in an initial public offering provided that it is neither a development stage company," as defined in Rule 1-02(h) of Regulation S-X[40] nor engaged in a "blank check offering." For purposes of the rule, "blank check offering" would be defined as an offering for which the registration statement, at the time of filing, does not describe the specific business and properties of the registrant and does not include specific disclosure concerning explicit investment criteria and objectives and the nature of acquisitions that are to be pursued with the proceeds of the offering.[41]

Because blank check offerings have been used extensively for abusive and fraudulent practices in the penny stock market, the Commission proposes to exclude registrants engaging in such offerings from utilizing the procedure.[42] Further, because of the absence of historical and/or prospective information regarding a registrant that is either a development stage company or engaging in a blank check offering, preliminary prospectuses are not unduly lengthy. Therefore, availability of the summary prospectus procedure in such offerings appears unnecessary. The Commission specifically seeks comment on the appropriations of these two exclusions as well as on the proposed definition of "blank check offering."

The Commission seeks comments on whether expansion of the summary prospectus procedure would be useful to issuers and what issuers could be expected to make use of summary prospectuses. The Commission also requests comment on both the utility to investors of a summary prospectus and the adequacy of the regulatory scheme to protect their interests where summary prospectuses are used. In this regard, comment is requested on whether the expansion of the summary prospectus procedure should be more limited in scope.

Commenters should address whether alternative objective standards more appropriately identify those offerings that would be better suited to the dissemination of summarized or condensed information, in light of the issuer's operating history and financial condition, the availability of issuer information in the marketplace, the nature of the securities being offered or other factors. For example, in connection with initial public offerings, availability of the summary prospectus procedure could be limited to those registrants offering securities that, at the time the offering is commenced, may reasonably be expected to either qualify of listing on a national securities exchange or for designation as NASDAQ National Market System ("NASDAQ/NMS") securities. These listing and designation criteria include standards regarding the issuer's operating history, results of operations, financial condition and the market for the securities to be issued.[43] Because these criteria may reasonably be expected to identify those issuers that are expected to be more widely followed by securities professionals, the Commission, after considering commenters' views, may conclude that such criteria would be an appropriate standard for non-reporting companies.

Under this alternative approach, actual submission of an application for listing or designation would not be required. Rather, availability of the summary prospectus procedure would be measured on whether the registrant would qualify if it submitted a listing or designation application. A registrant would be required to have a reasonable and good faith basis to support its position that the listing or designation standards would be satisfied at the time the securities are issued.

Commenters favoring alternative standards for use of the summary prospectus procedures should also address whether, instead of requiring eligibility for exchange listing or NASDAQ/NMS designation, it would be preferable to use one or more of the types of criteria used by the exchanges and the NASD, or other criteria. Thus, for example, comment is requested on the appropriateness of specifying that a

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[34] 17 CFR 230.431(a).

[35] 17 CFR 239.32.

[36] *See* paragraph (a)(2) of Rule 431.

[37] *See* paragraph (a)(3) of Rule 431.

[38] *See* paragraph (a)(4) of Rule 431.

[39] *See* paragraph (a) to Rule 431. The use of summary prospectuses is permitted only by Securities Act Forms S-1 (17 CFR 239.11), S-2 (17 CFR 239.12), F-1 (17 CFR 239.31) and F-2 (17 CFR 239.32). No changes to this requirement are being proposed.

[40] *See* proposed rule 431(a)(1). The definition of "development stage company" in rule 1-02(h) of Regulation S-X (17 CFR 210.1-02(h)) states:

A company shall be considered to be in the development stage if it is devoting substantially all of its efforts to establishing a new business and either of the following conditions exists: (1) Planned principal operations have not commenced. (2) Planned principal operations have commenced, but there has been no significant revenue therefrom.

[41] *See* proposed rule 431(a)(2).

[42] Because companies engaging in blank check offerings are not seasoned reporting issuers, current rule 431 prohibits these issuers from using the summary prospectus procedure. For the same reason, the procedure also has been unavailable to development stage companies.

[43] The Quantitative Designation Criteria for NASDAQ/NMS securities set forth two alternative standards. Alternative 1 includes required levels of pre-tax income, net tangible assets, number of publicly held shares, market value of publicly held shares, number of public shareholders, market price of shares and the presence of NASDAQ market makers. Alternative 2 includes required levels of net tangible assets, number of publicly held shares, market value of publicly held shares, presence of NASDAQ market makers, length of operating history and number of public shareholders. *See* NASD Manual, Schedule D, Section 2. The Minimum Numerical Standards of listing on the New York Stock Exchange include required levels of pre-tax income, market value of publicly held shares, net tangible assets, number of public shareholders and length of operating history. *See* New York Stock Exchange Listed Company Manual, Section 1. The Original Listing Requirements for listing on the American Stock Exchange include required levels of stockholders' equity, pre-tax income, length of operating history, stock price, market value of publicly held shares and number of stockholders. *See* American Stock Exchange Company Guide, Part 1.

summary prospectus can be used only by:

(1) Issuers with an operating history of a specified length of time (e.g., three years, as required for NASDAQ/NMS designation [44] and listing on the New York [45] and American Stock Exchanges, [46] or an operating history of a shorter or longer period, such as one or five years);

(2) Issuers with specified results of operations (e.g., pre-tax income of $750,000 as required for NASDAQ/NMS designation [47] and listing on the American Stock Exchange, [48] $2,500,000, as required for listing on the New York Stock Exchange, [49] or pre-tax income for a lesser or greater amount, such as $250,000 or $5,000,000);

(3) Issuers of a specified size (e.g., net tangible assets of $4,000,000 or $12,000,000 as required for NASDAQ/NMS designation,[50] or net tangible assets of $18,000,000 as required for listing on the New York Stock Exchange,[51] or net tangible assets of a lesser or greater amount, such as $1,000,000 or $25,000,000; or stockholders' equity of $4,000,000 as required for listing on the American Stock Exchange, [52] or stockholders' equity of a lesser or greater amount, such as $1,000,000, $10,000,000 or $25,000,000; or some other indicia of a registrant's size);

(4) Issuers with a specified number of publicly held shares (e.g., 500,000 or 1,000,000 publicly held shares as required for NASDAQ/NMS designation, [53] 1,100,000 publicly held shares as required for listing on the New York Stock Exchange, [54] 500,000 publicly held shares as required for listing on the American Stock Exchange [55] or some other level of publicly held shares, such as 250,000 shares or 1,500,000 shares); or

(5) Issuers with a specified market flat (e.g., market value of publicly held shares of $3,000,000 or $15,000,000 as required for NASDAQ/NMS designation,[56] market value of publicly held shares of $18,000,000 as required for listing on the New York Stock Exchange,[57] an aggregate market value of $3,000,000 for a reasonable period of time as required for listing on the American Stock Exchange,[58] or some other level of market float, such as aggregate market value of publicly held shares of $1,000,000 or $25,000,000).

Commenters should address whether it would be preferable to use a combination of two or more of the above or other factors.

The Commission also may consider limiting the use of summary prospectuses for offerings of non-convertible debt and preferred stock by non-reporting companies to offerings of investment grade securities. Non-convertible debt or preferred securities would be "investment grade securities" if at least one nationally recognized statistical rating organization (as that term is used in rule 15c3–1(c)(2)(vi)(F) under the Exchange Act) has rated the security in one of the generic rating categories which signifies investment grade.[59] Typically, the four highest rating categories (within which there may be sub-categories or gradations indicating relative standing) signify investment grade. Because investment grade securities are usually purchased on the basis of interest rates or securities ratings, this alternative may serve as a useful standard. Specific comment is sought on this approach as an alternative standard to the qualification for listing and designation discussed above.

2. Reporting Companies

The Commission proposes to maintain the current requirement that a registrant has filed all required reports during the twelve calendar months immediately preceding the filing of the registration statement in a timely manner. Requiring that a reporting company be in compliance with its reporting obligations under the Exchange Act would assure that timely information about the registrant is available to the market. Specific comment, however, is sought on the proposed continued inclusion of this requirement. Further, specific comment is requested with regard to the appropriateness of replacing the timeliness requirement with a standard requiring that reporting companies be current in their Exchange Act reporting obligations.

B. Revisions of Summary Prospectus Filing Requirements

Current rule 431(g) requires that eight copies of every proposed summary prospectus be filed as part of the registration statement and be on file for five business days prior to its use. Further, five additional copies of the exact form of summary prospectus delivered to prospective investors must be filed within seven days after the first use thereof.

The Commission proposes to eliminate the pre-use filing requirement and permit eligible registrants to use a summary prospectus immediately after filing such prospectus with the Commission. The administrative powers granted to the Commission against the use of defective summary prospectuses, as well as the civil liability and antifraud provisions of the Securities Act, provide sufficient protections to ensure compliance with the federal securities laws. The proposed elimination of the pre-use filing requirement does not alter traditional considerations regarding the need to amend, and, if necessary, recirculate an amended or updated summary prospectus.

The requirement of rule 431(g) that the exact form of each summary prospectus delivered to investors be filed with the Commission also is proposed to be deleted. Rather, the rule would be revised to require the filing of a summary prospectus only when it contains substantive changes from the previously filed form of summary prospectus and thereby conform the summary prospectus filing requirement to that applicable to complete preliminary and final section 10(a) prospectuses.[60] The term "substantive" would be interpreted in accord with the

[44] *See* NASD Manual, Schedule D, section 2(b)(5).

[45] *See* New York Stock Exchange Listed Company Manual, Section 102.02.

[46] *See* American Stock Exchange Company Guide, Section 101.B.

[47] *See* NASD Manual, Schedule D, section 2(a)(1).

[48] *See* American Stock Exchange Company Guide, Section 101.A.

[49] *See* New York Stock Exchange Listed Company Manual, Section 102.01.

[50] *See* NASD Manual, Schedule D, sections 2(a)(5) (Alternative 1) and 2(b)(1) (Alternative 2). *See* also footnote 43, supra, for a discussion of the alternative criteria for NASDAQ/NMS designation.

[51] *See* New York Stock Exchange Listed Company Manual, Section 102.01. The American Stock Exchange does not have a net tangible asset requirement.

[52] *See* American Stock Exchange Company Guide, section 101.A. The NASDAQ/NMS and New York Stock Exchange do not have a stockholders' equity requirement.

[53] *See* NASD Manual, Schedule D, sections 2(a)(2) (Alternative 1) and 2(b)(2) (Alternative 2).

[54] *See* New York Stock Exchange Listed Company Manual, Section 102.01.

[55] *See* American Stock Exchange Company Guide, section 102(a).

[56] *See* NASD Manual, Schedule D, sections 2(a)(3) (Alternative 1) and 2(b)(3) (Alternative 2).

[57] *See* New York Stock Exchange Listed Company Manual, section 102.01.

[58] *See* American Stock Exchange Company Guide, section 102(b).

[59] 17 CFR 240.15c3–1(c)(2)(vi)(F). This standard is the same as the transactional requirement set forth in General Instructions I.B.2. to Form S–3 (17 CFR 239.13), Form F–2 (17 CFR 239.32) and F–3 (17 CFR 239.33).

[60] *See* rule 424 of Regulation C (17 CFR 230.424).

filing requirement of rule 424 applicable to all other section10 prospectuses.[61]

As proposed, rule 431(g) would continue to require that the summary prospectus be filed as part of the registration statement. Further, definitive summary prospectuses would be required to be filed as part of the registration statement, provided that such filing would only be necessary when the form of summary prospectus delivered to investors contains substantive changes or additions to the summary prospectus previously filed with the Commission.

Specific comment is requested on the appropriateness of both eliminating the five business day pre-use filing period and requiring the filing of summary prospectuses only when there has been a substantive change to the disclosure.

IV. Proposed Revisions to Summary Prospectus Content Requirements

The information specifically required to be included in a summary prospectus is governed by the "Instructions As To Summary Prospectuses" section in the particular form used for the registration of securities.[62] Summary prospectuses are currently required to include information regarding the offering price to the public, the use of proceeds, the extent to which the offering is made for the account of security holders, the name of the managing underwriters, the plan of distribution, dividend rights, voting rights, conversion rights, interest and maturity of the securities to be offered, the general character of the business done and intended to be done, selected financial data and material pending legal proceedings.[63] The proposed revisions as to content would expand the summary prospectus requirements to include the information required by Item 503(c) of Regulation S-K (Risk Factors) [64] and a summary of the information required by Item 303 of Regulation S-K (Management's Discussion and Analysis of Financial Condition and Results of Operations).[65]

Accordingly, it is proposed that the "Instructions As To Summary Prospectuses" provisions of Securities Act Forms S-1, S-2, F-1 and F-2 be revised to include the above-mentioned informational requirements. Specific comment is requested on the appropriateness of the proposed requirement of this additional information. In particular, comment is requested on whether the entire management's discussion and analysis required by Item 303 of Regulation S-K should be included, rather than a summary. Commenters should also address the extent to which the requirements regarding the content of summary prospectuses should be expanded to include any other information.

V. General Request For Comment

Any interested persons wishing to submit written comments on the rule amendments which are the subject of this release to suggest additional changes, or to submit comments on other matters that might have an impact on the proposals contained herein, are requested to do so.

VI. Cost-Benefit Analysis

As an aid in the evaluation of the costs and benefits of these proposals, the Commission requests the views of and other supporting information from the public. It appears to the Commission that the proposals, if adopted, would work significant cost savings for issuers without compromising investor protection.

VII. Summary of the Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Act Analysis ("Analysis") in accordance with 5 U.S.C. 603 regarding the proposed revision of rule 431(a) and rule 431(g). The Analysis explains that the inability to use summary prospectuses may, in certain circumstances, impose undue burdens upon the issuer of securities. As such, the Analysis indicates, the proposed amendments to rule 431 are intended to permit a broader class of registrants to use a condensed form of prospectus. The Analysis explains that the proposed revisions to rule 431 expanding the use of summary prospectuses by specified registrants would not infringe upon the protection of investors. Further, the proposed amendment to rule 431 eliminating the additional filing requirements for summary prospectuses would, the Analysis explains, affect small entities which are issuers in the same manner as other registrants.

The Analysis also indicates that these proposals would in no manner prohibit the use of summary prospectuses by any issuer which currently satisfies the provisions of rule 431(a). Currently, small issuers may use summary prospectuses if they have been a reporting entity for thirty-six calendar months. The proposal would permit use of the prospectus summary procedure by non-reporting companies, other than development stage companies, companies engaging in blank check offerings or companies with recent material defaults on specified obligations. The proposed revision would continue to require that reporting companies be timely in their filing obligations during the twelve-month period immediately preceding the filing of a registration statement or such shorter period during which the issuer has been a reporting company. Thus, adoption of the proposals may result in decreased costs of dissemination of prospectuses by many issuers, including smaller registrants.

Further, the Analysis indicates that the proposed revisions to Securities Act Forms S-1, S-2, F-1, and F-2 specifically requiring the inclusion of additional information in the summary prospectus would not impose a significant additional burden upon registrants, as the additional information to be included in the summary prospectus is based upon information currently required to be prepared and included in the registration statement. Further, the requirement of additional information will affect small entities which are issuers and broke-dealers in the same manner as other issuers and broker-dealers.

As the Analysis indicates, several possible significant alternatives to the proposals were considered, including, among others, establishing different requirements for small entities or exemption them from all or part of the requirements. As discussed in the Analysis, comment has been requested concerning the appropriateness of these alternatives in light of the purposes of the Securities Act and the protection of investors.

A copy of the Initial Regulatory Flexibility Analysis may be obtained from Martin P. Dunn, Division of Corporation Finance, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

The Commission encourages the submission of comments with respect to any aspect of the Analysis. Such written comments will be considered in preparation of the final Regulatory Flexibility Act Analysis if the proposed

[61] *See* Release No. 33-6714 (52 FR 21252) (June 5, 1987).

[62] The use of summary prospectuses is permitted only by Securities Act Forms S-1, S-2, F-1 and F-2.

[63] Forms S-1 and F-1 also provide that where securities being registered are to be offered in exchange for securities of any other issuer, the summary prospectus also shall contain a brief statement as to dividend rights, voting rights, conversion rights, interest and maturity of such other issuer's securities, a brief statement of the general business intended to be done and selected financial data and material pending legal proceedings regarding such other issuer.

[64] 17 CFR 229.503(c).

[65] 17 CFR 229.303.

rule is adopted. Persons wishing to submit written comments should file four copies of such comments with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC. All submissions should refer to File No. S7-12-90 and will be available for public inspection.

VIII. Statutory Basis of Rule and Form Proposals

The amendments to rule 431 and Forms S-1, S-2, F-1, and F-2 are being proposed by the Commission pursuant to Sections 6, 7, 10, and 19 of the Securities Act.[66]

List of Subjects in 17 CFR Parts 230 and 239

Reporting and recordkeeping requirements, Securities.

IX. Text of Rule Proposals

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78*o*, 78w, 79t, and 89a-37, as amended, unless otherwise noted.

2. The authority citation following § 230.431 is removed.

3. By revising paragraph (a) of § 230.431 to read as follows:

§ 230.431 Summary prospectuses.

(a) A summary prospectus prepared and filed as a part of a registration statement in accordance with this rule shall be deemed to be a prospectus permitted under section 10(b) of the Act for the purposes of section 5(b)(1) of the Act if the form used for registration of the securities to be offered provides for the use of a summary prospectus and, if the issuer is not a registered open-end investment company, the following conditions are met:

(1) The registrant is not a "development stage company," as defined in Rule 1-02(h) of Regulation S-X;

(2) The registrant is not engaged in a "blank check offering." A "blank check offering," for the purposes of this rule, is an offering for which, at the time of filing, the registration statement does not describe the specific business or properties of the registrant and does not include specific disclosure concerning explicity investment criteria and objectives and the nature of acquisitions that are to be pursued with the proceeds of the offering;

(3) Neither the registrant nor any of its consolidated or unconsolidated subsidiaries has, since the end of its last fiscal year for which certified financial statements were included in a report filed pursuant to section 13(a) or 15(d) of the Securities Exchanges Act of 1934 (the "Exchange Act") or a registration statement under the Securities Act of 1933, failed to pay any dividend or sinking fund installment on preferred stock; or defaulted on any installment or installments on indebtedness for borrowed money, or on any rental on one or more long term leases, which defaults in the aggregate are material to the financial position of the registrant and its consolidated and unconsolidated subsidiaries, taken as a whole; and

(4) If the registrant is subject to the reporting requirements of section 12 or 15 (d) of the Exchange Act, it has been timely in its filings under sections 13, 14 and 15(d) of the Exchange Act for the twelve calendar months immediately preceding the filling of the registration statement (or such shorter period during which it has been subject to the requirements of section 12 or 15(d) of the Exchange Act).

4. By revising paragraph (g) of § 230.431 to read as follows:

§ 230.431 Summary prospectuses.

* * * * *

(g) (1) Eight copies of every summary prospectus shall be filed with the registration statement or as an amendment thereto.

(2) Five copies of every form of summary prospectus sent or given to any person prior to the effective date of the registration statement which varies from the form of summary propectus included in the registration statement as filed pursuant to Rule 402(a) (§203.402(a) of this chapter) shall be filed as part of the registration statement not later than the date such form of summary prospectus is first sent or given to any person; Provided, however, That only a form of summary prospectus that contains substantive changes from or additions to a prospectus previously filed with the Commission as part of a registration statement need be filed pursuant to this paragraph.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. The authority citation for part 239 continues to read, in part, as follows:

Authority: The Securities Act of 1933, 15 U.S.C. 77a, *et seq.*, * * *

2. Instruction 1 of the Instructions As To Summary Prospectuses in Form S-1 (§239.11) is amended by redesignating paragraphs (b) through (a) as paragraph (c) through (h) and adding a new paragraph (b), which reads as follows:

Note: The text of Form S-1, does not appear in the Code of Federal Regulations.

§ 239.11 Form S-1, registration statement under the Securities Act of 1933.

* * * * *

Instructions As To Summary Prospectuses

* * * * *

(b) As to Item 3, a statement of the principal factors that make the offering speculative or one of high risk (Item 503(c) of Regulations S-K (§229.503(c) of this chapter)];

* * * * *

3. By revising paragraph (g) of Instruction 1 of the Instructions As To Summary Prospectuses in Form S-1 (§ 239.11) to read as follows:

§ 239.11 [Amended]

* * * * *

Instructions as to Summary Prospectuses

* * * * *

(g) As to Item 11, a brief statement of the general character of the business done and intended to be done, the selected financial data (Item 301 of Regulation S-K (§ 229.301 of this chapter)), a summary of management's discussion and analysis of financial condition and results of operations (Item 303 of Regulation S-K (§ 229.303 of this chapter)) and a brief statement of the nature and present status of any material pending legal proceedings; and

* * * * *

4. Instruction 1 of Instructions as to Summary Prospectuses in Form S-2 (§ 239.12) is amended by redesignating paragraphs (b) through (g) as paragraphs (c) through (h) and adding a new paragraph (b), which reads as follows:

Note: The text of Form S-2 does not appear in the Code of Federal Regulations.

§ 239.12 Form S-2, for registration under the Securities Act of 1933 of securities of certain issuers.

* * * * *

Instructions as to Summary Prospectuses

* * * * *

(b) As to Item 3, a statement of the principal factors that make the offering

[66] 15 U.S.C. 77f, 77g, 77j, and 77s.

speculative or one of high risk (Item 503(c) of Regulation S-K (§ 229.503(c) of this chapter));

* * * * *

5. By revising paragraph (g) of Instruction 1 of the Instructions as to Summary Prospectuses in Form S-2 (§ 239.12) to read as follows:

§ 239.12 [Amended]

* * * * *

Instructions as to Summary Prospectuses

* * * * *

(g) As to Item 11, a brief statement of the general character of the business done and intended to be done, the selected financial data (Item 301 of Regulation S-K (§ 229.301 of this chapter)), a summary of management's discussion and analysis of financial condition and results of operations (Item 303 of Regulation S-K (§ 229.303 of this chapter)) and a brief statement of the nature and present status of any material pending legal proceedings; and

* * * * *

6. Instruction 1 of Instructions as to Summary Prospectuses in Form F-1 (§ 239.31) is amended by redesignating paragraphs (c) through (h) as paragraphs (d) through (i) and adding a new paragraph (c), which reads as follows:

Note: The text of Form F-1 does not appear in the Code of Federal Regulations.

§ 239.31 Form F-1, registration statement under the Securities Act of 1933 for securities of certain foreign private issuers.

* * * * *

Instructions as to Summary Prospectuses

* * * * *

(c) As to Item 3, a statement of the principal factors that make the offering speculative or one of high risk (Item 503(c) of Regulation S-K (§ 229.503(c) of this chapter));

* * * * *

7. By revising paragraph (h) of Instruction 1 of the Instructions as to Summary Prospectuses in Form F-1 (§ 239.31) to read as follows:

§ 239.31 [Amended]

* * * * *

Instructions as to Summary Prospectuses

* * * * *

(h) As to Item 11, a brief statement of the general character of the business done and intended to be done, the selected financial data (Item 301 of Regulation S-K (§ 229.301 of this chapter)), a summary of management's discussion and analysis of financial condition and results of operations (Item 303 of Regulation S-K (§ 229.303 of this chapter)) and a brief statement of the nature and present status of any material pending legal proceedings; and

* * * * *

8. Instruction 1 of Instructions as to Summary Prospectuses in Form F-2 (§ 239.32) is amended by redesignating paragraphs (c) through (h) as paragraphs (d) through (i) and adding a new paragraph (c), which reads as follows:

Note: The text of Form F-2 does not appear in the Code of Federal Regulations.

§ 239.32 Form F-2, for registration under the Securities Act of 1933 for securities of certain foreign private issuers.

* * * * *

Instructions as to Summary Prospectuses

* * * * *

(c) As to Item 3, a statement of the principal factors that make the offering speculative or one of high risk (Item 503(c) of Regulation S-K (§ 229.503(c) of this chapter));

* * * * *

9. By revising paragraph (h) of Instruction 1 of the Instructions as to Summary Prospectuses in Form F-2 (§ 239.32) to read as follows:

§ 239.32 [Amended]

* * * * *

Instructions as to Summary Prospectuses

* * * * *

(h) As to Item 11, a brief statement of the general character of the business done and intended to be done, the selected financial data (Item 301 of Regulation S-K (§ 229.301 of this chapter)), a summary of management's discussion and analysis of financial condition and results of operations (Item 303 of Regulation S-K (§ 229.303 of this chapter)) and a brief statement of the nature and present status of any material pending legal proceedings; and

* * * * *

By the Commission.

Dated: June 22, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-14897 Filed 6-26-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 146

[DoD Directive 5525.9]

Compliance of DoD Members, Employees, and Family Members Outside the United States With Court Orders

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary of Defense proposes to amend 32 CFR part 146.6(a) to provide that a Department of Defense Component Head may delay taking action under 146 for 90 days, as authorized by that section. The section currently authorizes a delay of 45 days.

DATES: Written comments on this proposed rule must be received by July 27, 1990.

ADDRESSES: Forward comments to the Office of the Assistant General Counsel (Personnel and Health Policy), Department of Defense, the Pentagon, room 3E999, Washington, DC 20301-1600.

FOR FURTHER INFORMATION CONTACT: Paul S. Koffsky, telephone (202) 695-3657.

SUPPLEMENTARY INFORMATION: The Department of Defense implemented section 721 of Public Law 100-456 by issuing 32 CFR part 146 (see FR Doc. 89-3909, appearing in the **Federal Register** on February 22, 1989 (54 FR 7539) and FR Doc. 89-133, appearing in the **Federal Register** on January 5, 1989 (54 FR 298). This proposed amendment is designed to reflect the operational realities of DoD overseas activities.

List of Subjects in 32 CFR Part 146

Courts, Government employees; Intergovernmental relations; and Military personnel.

Accordingly, 32 CFR part 146 is proposed to be amended as follows:

PART 146—[AMENDED]

1. The authority citation for part 146 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 113; 10 U.S.C. 814; Pub. L. 100-456 section 721.

2. Section 146.6(a) introductory text is proposed to be amended to change 45 days to 90 days.

Dated: June 21, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-14833 Filed 6-26-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7-90-47]

Drawbridge Operation Regulations: Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Brevard County, the Coast Guard is considering changing regulations governing the SR 402 drawbridge at Titusville by permitting the number of openings to be limited during certain periods. This

proposal is being made because the vehicular traffic pattern has changed. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATES: Comments must be received on or before August 13, 1990.

ADDRESSES: Comments should be mailed to Commander (oan) Seventh Coast Guard District, 909 SE 1st Ave., Miami, FL 33131-3050. The comments and other materials referenced in this notice will be available for inspection and copying at Brickell Plaza Federal Building, room 484, 909 SE 1st Avenue, Miami, FL. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Walt Paskowsky (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Walt Paskowsky, project officer, and LCDR S.G. Dickman, project attorney.

Discussion of Proposed Regulations

The bridge presently opens on signal; except that, from 6:45 a.m. to 7:45 a.m. and 4:15 p.m. to 5:45 p.m. Monday through Friday, the draw need not open. Brevard County requested these periods be changed and lengthened to cover the period from 6 a.m. to 7:30 a.m. and 3 p.m. to 4:45 p.m., weekdays except holidays. Analysis of highway traffic data indicates this two lane roadway has a poor level of service during the morning and evening rush hours which now occur earlier than the periods covered by the recent regulations. No justification was presented for lengthening the closed periods.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the rule exempts tugs with tows. Since the economic impact of the proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117 DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.261(k) is revised to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(k) SR402 bridge, mile 878.9 at Titusville. The draw shall open on signal; except that, from 6:15 a.m. to 7:15 a.m. and 3 p.m. to 4:30 p.m. Monday through Friday, except federal holidays, the draw need not open.

* * * * *

Dated: June 15, 1990.

Robert E. Kramek,

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

[FR Doc. 90-14856 Filed 6-26-90; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7-90-54]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: At the request of Congressman Tom Lewis, the Coast Guard is considering changing regulations governing the PGA Boulevard and Parker drawbridges at North Palm Beach by permitting the number of openings to be limited during certain periods. This supplemental proposal is considered a reasonable compromise between the interests of highway and waterway users. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATES: Comments must be received on or before August 13, 1990.

ADDRESSES: Comments should be mailed to Commander (oan) Seventh Coast Guard District, 909 SE 1st Ave. Miami, FL 33131-3050. The comments and other materials referenced in this notice will be available for inspection and copying at Brickell Plaza Federal Building, Room 484, 909 SE 1st Avenue, Miami, FL. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Walt Paskowsky (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Walt Paskowsky, project officer, and LCDR D.G. Dickman, project attorney.

Discussion of Proposed Regulations

The PGA Boulevard and Parker bridges presently open on signal; except that from 7 a.m. to 9 a.m. and 4 p.m. to 7 p.m., Monday through Friday, the PGA Boulevard bridge opens on the quarter and three-quarter hour and the Parker bridge opens on the hour and half hour. On weekends and Federal holidays both

bridges open on the hour, 20 minutes after the hour, and 40 minutes after the hour from 8 a.m. to 6 p.m. At the request of Congressman Lewis, the Coast Guard tested a 30 minute schedule from 7 a.m. to 7 p.m., Monday through Friday, for 60 days that began on January 2, 1990. The results of this test indicated holding conditions near the bridges were inadequate to safely accumulate a large number of vessels awaiting a bridge opening for 30 minutes. Some improvement was noted in reducing afternoon traffic congestion during the winter seasonal period. However, because the traffic light on US 1 at The Old Port Cove entrance has not yet been preempted, the highway intersection gridlock continued during many bridge openings. This has been brought to the attention of Florida Department of Transportation. Comments received from a large boating association indicated vessels could safely accumulate near both bridges for a maxium period of 20 minutes. The proposed rule is, therefore, a compromise between the 15 minute opening schedule proposed by the Coast Guard in the Notice of Proposed Rulemaking that was published on March 13, 1989, and a 30 minute opening schedule that was proposed by Congressman Lewis. This proposal for a seasonal 20 minute opening schedule from November 1 until May 31 would also standardize weekend and weekday bridge schedules as was suggested by many commenters.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the rule exempts tugs with tows. Because the economic impact of the proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Sections 117.261 (s) and (t) are *revised to read as follows:*

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(s) *PGA Boulevard bridge, mile 1012.6.* The draw shall open on signal; except that, from 7 a.m. to 9 a.m. and 4 p.m. and 7 p.m., Monday through Friday, except Federal holidays, the draw need open only on the quarter hour and three-quarter hour. On Saturdays, Sundays and Federal holidays, from 8 a.m. to 6 p.m., the draw need open only on the hour, 20 minutes after the hour, and 40 minuites after the hour. On weekdays except Federal holidays from November 1 through April 30, from 9 a.m. to 4 p.m., the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour.

(t) *Parker US1 Bridge, mile 1013.7.* The draw shall open on signal; except that, from 7 a.m. to 9 a.m. and 4 p.m. to 7 p.m., Monday through Friday, except Federal holidays, the draw need open only on the hour and half hour. On Saturdays, Sundays, and Federal holidays, from 8 a.m. to 6 p.m., the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour. On weekdays except Federal holidays from November 1 through April 30, from 9 a.m. to 4 p.m., the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour.

* * * * *

Dated: June 15, 1990.

Robert E. Kramek,

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

[FR Doc. 90-14855 Filed 6-26-90; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-31, RM-7195]

Radio Broadcasting Services; Oak Grove, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Oak Grove Broadcasting ("petitoner"), seeking the allotment of Channel 283C2 to Oak Grove, Florida, as that community's first local broadcast service. The coordinates for the proposal are North Latitude 29-42-03 and West Longitude 85-15-07.

DATES: Comments must be filed on or before August 13, 1990, and reply comments on or before August 28, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Vincent A. Pepper, Neal J. Friedman, Pepper & Corazzini, 1776 K Street NW., Washington, DC 20006 (Attorneys for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-310, adopted June 8, 1990, and released June 22, 1990. The full text of the Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-14931 Filed 6-26-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-309, RM-7097, RM-7310]

Radio Broadcasting Services; Griffin, Hogansville, and Sparta, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on two interrelated petitions. The first petition, filed by Design Media, Inc., proposes the substitution of Channel 248C3 for Channel 249A at Griffin, Georgia, and modification of its Class A license for Station WKEU(FM) to specify operation on the higher class channel, and the substitution of Channel 288A for vacant but applied for Channel 248A at Hogansville, Georgia. The second petition, filed by Alexander Mitchell Communications Corporation, seeks the substitution of Channel 249C3 for Channel 249A at Sparta, Georgia, and modification of the license for Station WSKS(FM) to specify Channel 249C3. The upgrade at Sparta requires the substitution of Channel 248C3 for Channel 249A at Griffin, Georgia, and the substitution of Channel 288A for Channel 248A at Hogansville, Georgia. Channel 248C3 can be allotted to Griffin, Georgia, in compliance with the minimum distance separation requirements of the Commission's Rules, with a site restriction 11.0 kilometers (6.9 miles) north. The coordinates for this allotment are North Latitude 33-20-30 and West Longitude 84-18-00. Channel 288A can be allotted to Hogansville, Georgia, in compliance with the minimum distance separation requirements of the Commission's Rules, with a site restriction 8.5 kilometers (5.3 miles) north. The coordinates for this allotment are North Latitude 33-14-59 and West Longitude 84-54-34. Channel 249C3 can be allotted to Sparta, Georgia, in compliance with the minimum distance separation requirements of the Commission's Rules, with a site restriction 21.1 kilometers (13.1 miles) west. The coordinates for this allotment are North Latitude 33-19-55 and West Longitude 83-11-17.

DATES: Comments must be filed on or before August 13, 1990, and reply comments on or before August 28, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultants, as follows: B. Jay Baraff, Lee J. Peltzman, Baraff, Koerner, Olender, & Hochberg, P.C., 2033 M Street NW., suite 700, Washington, DC 20036 (Attorneys for Design Media, Inc.), and John F. Garziglia, Howard J. Barr, Pepper & Corazzini, 1776 K Street NW., suite 200, Washington, DC 20006 (Attorneys for Alexander Mitchell Communications Corporation).

FOR FURTHER INFORMATION CONTACT: Nancy J. Wells, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-309, adopted June 6, 1990, and released June 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until this matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contracts.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-14932 Filed 6-26-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-310, RM-7190]

Radio Broadcasting Services; Tennille, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Michael K. Garner ("petitioner"), seeking the allotment of Channel 260A to Tennille, Georgia, as that community's first local broadcast service. The coordinates for the proposal are North Latitude 32-56-24 and West Longitude 82-48-06.

DATES: Comments must be filed on or before August 13, 1990, and reply comments on or before August 28, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitoner, or its counsel or consultant, as follows: Michael K. Garner, 1980 North Akin Drive, Atlanta, Georgia 30345 (petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-310 adopted June 8, 1990, and released June 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in

Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-14933 Filed 6-26-90; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 55, No. 124
Wednesday, June 27, 1990

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

Soil Conservation Service

Rio Rancho Critical Area Treatment: A Sediment Reduction Demonstration, NM

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Soil Conservation Service Rules (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Rio Rancho Critical Area Treatment: A Sediment Reduction Demonstration, Hub Resource Conservation and Development (RC&D) project, Sandoval County, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ray T. Margo, Jr., State Conservationist, Soil Conservation Service, 517 Gold Ave., SW., room. 3301, Albuquerque, NM 87102-3157, telephone 505-766-3277.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the human environment. As a result of these findings, Ray T. Margo, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The measure concerns critical area treatment. The planned works of improvement will control water erosion. Conservation practices to be installed are demonstrations of 6,100 linear feet of arroyo bank protection and grade stabilization.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency and various Federal, State, and local agencies and interested parties. The environmental assessment has had a 30 day review by concerned Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Ray T. Margo Jr.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: June 15, 1990.

Ronald L. Lauster,
Acting State Conservationist

[FR Doc. 90-14880 Filed 6-26-90; 8:45 am]

BILLING CODE 3420-16-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 23-90]

Foreign-Trade Zone 136—Brevard County, FL; Application for Subzone Flite Technology Machine Parts Plant, Cocoa, FL

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Canaveral Port Authority, grantee of Foreign-Trade Zone 136, requesting subzone status for the machinery components manufacturing plant of Flite Technology, Inc. (FTI), in Cocoa, Florida, adjacent to the Port Canaveral Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 19, 1990.

The FTI plant (1.5 acres) is located at 411 Shearer Boulevard, Cocoa, Brevard County, Florida. It is used to produce machinery for the plastics industry, including feed screws, barrels and other injection and extrusion machinery parts. The primary materials used to produce the machinery parts are specialty steel mill products, including alloy steel bar, tool steel bar, feed screw blanks and hard facing. A portion of the specialty steel mill products are sourced abroad. A number of the finished products are exported.

Zone procedures will exempt FTI from Customs duty payments on the foreign materials used to produce items that are exported. On its domestic sales, the company would be able to choose the finished product duty rate on finished machinery parts (3.9%). The duty rates on the foreign-sourced specialty steel range from 10.6 to 11.5 percent. The application indicates that the zone savings will improve the plant's international competitiveness.

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; Howard Cooperman, Regional Director, Inspection and Control, U.S. Customs Service, Southeast Region, 909 SE First Avenue, Miami, FL 33131-2595; and, Colonel Bruce A. Malson, District Engineer, U.S. Army Engineer District Jacksonville, P.O. Box 4970, Jacksonville, FL 32232-0019.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before August 14, 1990.

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, 120 George King Boulevard, Port Canaveral, FL 32920.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 2835, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

Dated: June 20, 1990.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 90-14815 Filed 6-26-90; 8:45 am]

BILLING CODE 3510-DS-M

[Docket A-26-90]

Foreign-Trade Zone 151—Findlay, OH; Request for Manufacturing Findlex Automobile/Golf Cart Brake Plant

A request has been submitted to the Foreign-Trade Zones Board (the Board) by the Community Development Foundation, grantee of FTZ 151, on behalf of Findlex Corporation (subsidiary of Nissin Kogyo of Japan and Honda of America Manufacturing, Inc.), requesting authority to manufacture vehicle brakes under zone procedures within FTZ 151, located at the Tall Timbers Industrial Park, Findlay, Ohio. It was filed on June 14, 1990.

Findlex began assembling brakes for automobiles and golf carts at the new plant in 1989. Board approval is required before the manufacturing activity can be conducted under zone procedures. Findlex currently sources all of its parts and subassemblies from abroad, but plans to begin sourcing some of its components from domestic suppliers this year. Foreign-sourced parts include springs, plates, rod and wheel cylinder assemblies, pistons, boots and seals.

Presently, most finished components are shipped to domestic automobile and golf cart plants with subzone status. In these situations, Customs duties would be paid on the foreign items when Customs entry is made after the production of the vehicles. The duty rates on the foreign material Findlex uses average 3.1 percent. Under zone procedures, the vehicle assembler would have the option of choosing the finished vehicle rate (2.5%), rather than the rate on brakes/components (3.1%). Products will otherwise be subject to Customs duties upon leaving the Findlex plant, at the rate for brakes/components (3.1%). The request indicates that zone savings will help Findlex compete with foreign vehicle parts producers.

The application is being reviewed by the FTZ Staff. Comments on the request are invited in writing from interested parties. They should be addressed to the Executive Secretary at the address below and postmarked on or before August 14, 1990.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2835, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: June 20, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90-14816 Filed 6-26-90; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 469]

Foreign-Trade Zones Board; Approval for Expansion of Foreign-Trade Zone 12, McAllen, TX

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

Whereas, the McAllen Economic Development Corporation, Grantee of Foreign-Trade Zone No. 12, has applied to the Board for authority to expand its general-purpose zone to include a site at the McAllen-Miller International Airport, McAllen, Texas, area, within the Hidalgo Customs port of entry;

Whereas, the application was accepted for filing on September 30, 1988, and notice inviting public comment was given in the **Federal Register** on October 17, 1988 (Docket 31-88, 53 FR 40484);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the McAllen area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the grantee is authorized to expand its zone in accordance with the application filed September 30, 1988. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 19th day of June, 1990.

Frank J. Sailer,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 90-14814 Filed 6-26-90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-580-008]

Color Television Receivers From the Republic of Korea; Final Results of Antidumping Duty Administration Review

AGENCY: Import Administration/International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On December 5, 1989, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on color television receivers from the Republic of Korea. The review covers four manufacturers and/or exporters for the period April 1, 1986 through March 31, 1987 (fourth review), and one manufacturer for the period April 1, 1987 through March 31, 1988 (fifth review). The review also covers certain entries made during the period January 9, 1986 through March 31, 1986.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received and the correction of certain clerical errors, we have changed the preliminary rates. The final dumping margins range from zero to 2.24 percent.

EFFECTIVE DATE: June 22, 1990.

FOR FURTHER INFORMATION CONTACT: Edmond A. O'Neill or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1131.

SUPPLEMENTARY INFORMATION:

Background

On December 5, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 50258) the preliminary results of its administrative review of the antidumping duty order on color television receivers from the Republic of Korea (49 FR 18336, April 30, 1984). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act) and 19 CFR 353.22 (1989).

Scope of the Review

Imports covered by this review are shipments of color television receivers, complete and incomplete, from the Republic of Korea. The order covers all color television receivers (CTVs) regardless of tariff classification. The

merchandise was classifiable under item numbers 864.9246, 684.9248, 684.9250, 684.9252, 684.9253, 684.9255, 684.9256, 684.9258, 684.9262, 684.9270, 684.9275, 684.9655, 684.9656, 684.9658, 684.9660, 684.9663, 684.9864, 684.9866, 687.3512, 687.3513, 687.3514, 687.3516, 687.3518, and 687.3520 of the Tariff Schedules of the United States Annotated (TSUSA). As of January 1, 1989, this merchandise is classifiable under Harmonized Tariff Schedules (HTS) items 8528.10.80, 8529.90.15, 8529.90.20, and 8540.11.00. TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers four manufacturers and/or exporters for the period April 1, 1986 through March 31, 1987, and one manufacturer for the period April 1, 1987 through March 31, 1988.

On October 20, 1986, we determined that printed circuit boards (PCBs) and color picture tubes (CPTs) imported from Korea and subsequently assembled into CTVs are included in the scope, and we instructed the Customs Service to suspend liquidation on all such entries made on or after January 9, 1986. Because we did not include sales of PCBs and CPTs entered between January 9 and March 31, 1986 in the third administrative review, we are considering those sales in this review.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received timely comments from the International Brotherhood of Electrical Workers, the International Union of Electronic, Electrical, Technical, Salaried and Machine Workers, AFL–CIO–CLC, the Independent Radionic Workers of America, and the Industrial Union Department, AFL–CIO (the petitioners), Zenith Electronics Corp. (Zenith), and four respondents, Goldstar Co. (Goldstar), Samsung Electronics Co. (Samsung), Daewoo Electronics Co. (Daewoo), and Quantronics Manufacturing Korea, Ltd. (Quantronics).

General Comments

Comment 1: Zenith and the petitioners argue, with respect to Korean taxes rebated or not collected by virtue of exportation, that the Department's methodology resulted in two unlawful actions: (1) Failure to cap the amount of tax added to United States Price (USP) at the amount of tax added to or included in the home market price of the comparison model, even assuming full pass-through of the tax into home market price, and (2) adjusting foreign market value (FMV) for a difference in circumstances of sale quantified as the full amount of the difference between the tax added to USP and the tax included in the home market price.

Zenith further argues that the Department should have implemented the ruling of the Court of International Trade (CIT) in *Zenith Electronics Corp.* v. *United States*, 10 CIT 268, 633 F.Supp. 1382 (1986), appeals dismissed, Fed. Cir. Nos. 88–1259 and 88–1260 (1989), by capping the tax adjustment to USP at the amount of tax added to, or included in, the home market price. Zenith also contends that, since the court prohibited the Department from using the circumstance-of-sale adjustment under § 353.56 to neutralize the tax adjustment required by § 353.41(d)(iii), the Department should not make such an adjustment in this case.

Daewoo and Goldstar argue that the Department should continue to use a 100 percent pass-through amount as well as make a circumstance-of-sale adjustment to eliminate artificial margins. Goldstar further argues against Zenith's position on circumstance-of-sale adjustments, noting that these adjustments have been approved by the court in certain circumstances, even in *Zenith*. Further, Goldstar argues that the Department's long-standing practice is to allow circumstance-of-sale adjustments. Goldstar cites *Color Television Receivers from Korea* (53 FR 24976), and *Television Receivers, Monochrome and Color, from Japan* (54 FR 13,918). Regarding the measurement of tax pass-through, Goldstar argues that the court's ruling on pass-through in *Zenith* is flawed. Goldstar argues that neither the statute nor the legislative history gives any indication that the Department must measure the amount of tax passed through to consumers in the home market.

Department's Position: We do not agree with the court in *Zenith* but have not had an opportunity to appeal the issues on its merits. Consistent with our long-standing policy, we have not attempted to measure the amount of tax "passed through" to customers in the Korean market. We do not agree that the statutory language limiting the amount of the adjustment to the amount of the commodity tax "added to or included in the price" of televisions sold in Korea requires the Department to measure the incidence of the tax in an economic sense.

We agree that the amount of commodity tax forgiven by reason of the export of televisions to the United States must be added to USP under the statute. The tax base in Korea is the net dealer delivered price, which is the price to the first unrelated party. Therefore, to make an appropriate "apples-to-apples" comparison, we used the price to the first unrelated party in the United States as the U.S. tax base. We calculated the adjustment by multiplying the U.S. tax base by the home market tax rate and adding the result to USP. To avoid artificially inflating or deflating margins, we made circumstance-of-sale adjustments equal to the difference in the tax per unit. *See* our position on Comment 1 in *Television Receivers, Monochrome and Color, from Japan; Final Results of Administrative Review* (55 FR 2399).

Comment 2: Zenith argues that the Department should take into account the average age and balance of each account payable relating to home market sales, and apply the respondents' short-term interest rate to those average ages and balances to offset all claimed selling expenses. Zenith maintains that the true cost of a discount or rebate is the discount or rebate amount minus the savings the respondent realizes by paying the rebate or discount after the obligation to pay has been incurred. Goldstar, Daewoo, and Samsung disagree, noting that the Department answered the same comment in the third review of this order. Daewoo further points out that if the Department accepted Zenith's argument, it would be necessary to perform the analysis for both FMV and USP. Daewoo asserts that the impact on margins would therefore be largely nullified.

Department's Position: We disagree with Zenith. Any opportunity cost incurred as a result of a discount or rebate would have been taken into account by the seller in setting the terms of the discount or rebate. Therefore, it is unnecessary to impute any additional costs. This is in contrast to credit costs or inventory carrying costs, where the seller does not know how long it will take for a customer to pay or how long he will store merchandise before it is sold.

Comment 3: Zenith is concerned that the respondents have included, and the Department has accepted, various indirect expenses in the ESP offset to foreign market value (FMV) which are not selling expenses. Respondents have an incentive to assign nonselling expenses to sales offices so that the pool of expenses included in the offset is maximized. Zenith urges the Department to require respondents to demonstrate that each home market indirect expense is a selling expense. Goldstar, Daewoo, and Samsung note that this argument was raised by Zenith in the third review

of this order and was not accepted by the Department. Samsung also points out that the Department did not accept the same argument from Zenith in the final results of *Televisions from Japan* (54 FR 35520, Comment 5).

Department's Position: In this review we have followed our practice as stated in the final results of the third review of this order (53 FR 24976, Comment 2). The pool of indirect selling expenses in the home market should include those expenses which are similar to the expenses incurred by the subsidiary in the United States whose function it is to sell merchandise. In this instance, the equivalent home market expenses are those which are incurred by the home market selling division in support of the home market sales effort and which include certain general expenses associated with selling.

Comment 4: Zenith argues that the Department should include all antidumping legal fees as an indirect selling expense deduction from ESP. Goldstar, Daewoo, and Samsung disagree with Zenith and note that the Department has answered this claim in the final results of the third review of this order, and that the CIT upheld the Department's position not to include antidumping legal fees in *Daewoo Electronics Co., et al.* v. *United States*, 712 F. Supp. 931, 947 (CIT 1989). Additionally, Samsung cites *Televisions from Japan* (54 FR 35520), and Daewoo cites the Department's "Study of Antidumping Adjustments Methodology and Recommendations for Statutory Change" (November 1985) to show that this position has long been held by the Department.

Department's Position: In this review we have followed our practice as stated in the final results of the third review of this order (53 FR 24978, Comment 12), a position sustained by the court in *Daewoo*. As stated in our "Study," we do not consider legal fees paid in connection with litigation resulting from an earlier antidumping investigation to be an expense related to sales made in the period of review. We view legal fees incurred at the administrative stage of an antidumping proceeding as meriting similar treatment since they are incurred in defending against an allegation of dumping. As such, they are not expenses incurred in selling merchandise in the United States. Further, to deduct antidumping legal fees as selling expenses would effectively discriminate against those respondents who seek legal counsel in proceedings before the Department.

Comment 5: Zenith argues that the statue instructs the Department to reduce USP by the amount of any charges or expenses incidental to bringing the merchandise from the country of exportation to its place of delivery in the United States (section 772(d)(2)(A) of the Tariff Act). Therefore, the Department should reduce USP by the amount of estimated antidumping duties and any expenses associated with paying such duties. Goldstar, Daewoo, and Samsung disagree with Zenith. They cite the third review of this order (53 FR 35520), *Televisions from Japan* (54 FR 35520), *Daewoo*, and the Department's methodological study to demonstrate that the Department's position for not making such a reduction has been well established.

Department's Position: In this review we have followed our position as stated in the final results of the second review (51 FR 41374, Comment 79) and the third review (53 FR 24978, Comment 12) of this order. Like legal fees, we do not consider antidumping duties to be expenses related to the sale under consideration. Given the tenuous nature of these estimated rates and the possibility that they could be zero, we do not consider them to be expenses within the meaning of section 772(d)(2)(A) of the Tariff Act for purposes of determining USP.

Comment 6: Zenith comments that the Department has incorrectly offset U.S. commissions with indirect selling expenses in the home market. Zenith argues that commissions paid on U.S. sales compensate the recipients for both direct and indirect expenses. Unless a commission is broken up into its direct and indirect components, and the FMV offset is capped at only the level of the indirect expense element, the commission offset to FMV will be overstated by the amount of the direct expense portion of the U.S. commission.

Daewoo argues that Zenith's assertion that a portion of independent commissions should be allocated to indirect expenses is nonsensical. Daewoo asserts that commissions are directly tied to individual sales. If sales are cancelled, so are commissions. Daewoo, Samsung, and Goldstar further note that the Department deemed commissions to be direct expenses in their entirety in the third review of this order.

Department's Position: In this review we have followed our practice as stated in the final results of the third review of this order (53 FR 24978, Comment 11). Our regulations require us to make an adjustment for situations in which a commission is paid in one market but not in the other market. That adjustment is limited to "the amount of the other selling expenses" alllowed in the other market (§ 353.56(b)(1) (1989)). We do not interpret our regulations to require us to limit the offset only to the direct expenses of the recipient of the commission. We are concerned with the commission expenses from the seller's point of view. From the seller's point of view, commissions are a direct expense in their entirety. Therefore, we have offset the full amount of the commission in the United States with the indirect selling expenses in the home market.

Comment 7: Zenith argues that the Department severely understates the antidumping cash deposit on entered merchandise by basing the weighted-average margins on statutory USP and not on the entered value of the merchandise. Upon entry of the merchandise into the United States, the Customs Service applies the weighted-average dumping margin to the declared entered value as best information available. Zenith argues that because this entered value is often less than the statutory USP, the absolute dollar amount of dumping duty is less than the dollar amount that would be the result if the margin were based on the statutory USP. Therefore, Zenith urges the Department to calculate the deposit rate as a percentage of the entered value and not as a percentage of the statutory USP. Goldstar, Daewoo, and Samsung disagree with Zenith and cite the results of the previous review of *Korean CTVs*, and the court's opinion in *Daewoo*, 712 F. Supp. at 957, in support of the Department's position.

Department's Position: In this review we have followed our practice as stated in the final results of the third review of this order (53 FR 24979, Comment 15), and in the final results of the review of the finding in *Televisions from Japan* (52 FR 8940, Comment 7). Section 736 of the Tariff Act requires the Department of instruct U.S. Customs to "assess an antidumping duty equal to the amount by which the FMV of the merchandise exceeds the United States price of the merchandise * * *" (19 U.S.C. 1673e(a)(1)). At the time that the merchandise is entered, USP has yet to be determined. Since cash deposits of estimated dumping duties are required at that time, we instruct Customs to require such cash deposits based on a percentage of the only value available, the entered value. If, after an administrative review, the amount of the antidumping duties deposited should be less than the actual amount to be assessed, we will collect interest on the difference.

Company-Specific Comments

Daewoo

Comment 8: Daewoo, Zenith, and the petitioners submitted comments concerning various mathematical, computer programming, and clerical errors in the Department's preliminary results analysis of Daewoo's response. Zenith also notes that certain home market expenses were omitted from Daewoo's FMV data base and urges the Department to ensure that these omissions are corrected. In addition, Zenith urges the Department to make sure that these changes are made for purposes of the sales-below-cost test as well.

Department's Position: We have made the following corrections to the appropriate programs in our final results calculations for Daewoo: negative quantities were removed from the data bases prior to conducting sales-below cost tests; missing selling, general, and administrative (SG&A) expenses for certain models were included in the data bases; return set loss was included as part of SG&A in the sales-below-cost test; incorrect or unidentified home market direct and indirect expenses were identified and corrected; royalty expenses were removed from, and commission expenses added to, the ESP offset calculation; home market advertising was included as a direct expense; typographical errors and omissions relating to model matches were corrected; certain incorrect FMV figures were corrected in the ESP program; a programming error in the ESP program, which incorrectly reduced Daewoo's USP, was corrected; the U.S. warranty parts claim in the preliminary analysis purchase price (PP) program was multiplied, rather than divided, by a factor of 100 for the final; and unused portions of the computer programs were omitted for clarity.

Comment 9: Zenith points out that sales of certain Daewoo home market models were made at less than the cost of production. In cases where more than 10 percent of the sales on a model-by-model basis were made below cost, Zenith argues that the below-cost sales should be disregarded.

Department's Position: We agree and have made the necessary deletions of below-cost sales.

Comment 10: The petitioners argue that the Department's use of one annual average cost of production amount per model is unreasonable. The petitioners argue that the Department should use quarterly cost of production data as reported in Daewoo's response. Daewoo argues that the Department has always used yearly data for Daewoo's cost tests and should not change its practice. Daewoo also notes that the use of quarterly data can cause aberrations due to one-time or semi-annual charges, the effects of which are mitigated by using an annual period.

Department's Position: We disagree with the peitioners. As Daewoo points out, the use of quarterly data in this case would cause aberrations due to short-term cost fluctuations, such as employee bonuses or lump-sum insurance payments, which properly should be allocated over one-year accounting period. Averaging over a one-year period provides a more accurate picture of the cost of production.

Comment 11: The petitioners contend that the Department erred in accepting Daewoo's exclusion of bad debt and goodwill expenses in its reported SG&A claim relating to the sales-below-cost test. The petitioners argue that since these expenses are accounted for in Daewoo's financial statements, they should not be treated differently for financial statement purposes and cost of production purposes. Daewoo disagrees, noting that the Department has in the past denied Daewoo's claims for bad debt and goodwill. Daewoo argues that it is unfair for the Department to deny certain claimed expenses when making sales comparisons, but to allow those same expenses when performing a sales-below-cost test.

Department's Position: We agree with the petitioners that bad debt and goodwill expenses should be included in COP. The fact that a particular expense is not considered direct and disallowed as a circumstance-of-sale adjustment does not necessarily mean that no expense was incurred. In some instances, such as here where Daewoo included its bad debt and good will expenses in its financial statements, such expenses are considered part of the manufacturing process, and therefore are included in the cost of production but are not allowable as circumstance-of-sale adjustments to FMV because they are not directly related to particular sales. *See* our position under comments 40 and 42 in the final results of the third review of *Korean CTVs (op cit.).*

Comment 12: The petitioners note that the Department failed to include dealer movement charges, rebates, and discount in home market prices for the sales-below-cost test.

Department's Position: We agree and have made the appropriate corrections.

Comment 13: Daewoo, Zenith, and the petitioners note that the database erroneously contains miscellaneous sales, other than dealer or department store/co-op sales, which should be excluded, as well as sales from outside the period. Daewoo suggests that the errors should be corrected prior to conducting the remainder of the analysis.

Department's Position: We agree and have made the appropriate changes.

Comment 14: The petitioners argue that the Department should base its cost test on a model-by-model basis, not on an aggregate of home market model data. They further argue that the Department should conduct its 10–90–10 test to determine which sales, if any, can be used.

Daewoo argues that the 10–90–10 rule should not be applied on a model-by-model basis, but rather on an overall product-line basis. Daewoo submits that in circumstances where manufacturers sell large numbers of highly similar products, such as CTVs, it is logical to analyze a firm's entire product line to determine if sales are made in substantial quantities below the cost of production.

Department's Position: We agree with the petitioners and have changed our methodology. W have performed, to the extent possible, a model-by-model cost comparison. It is preferable to perform the cost test on a model-specific basis because we make model-specific comparisons in our price-to-price analysis.

Comment 15: Zenith points out that home market taxes either rebated or not included in sales due to exportation were not included in either the FMV or the USP calculations in the Daewoo ESP computer programs. Zenith argues that the taxes should be calculated and added to both FMV and USP, limiting the amount added to USP to that actually included in the home market price. Daewoo agrees that Korean commodity taxes were not calculated for USP in the ESP analysis, but were included in FMV. Daewoo agrees that HM taxes and imported U.S. commodity taxes should be included in FMV and USP, respectively, and a circumstance-of-sale adjustment should be made for the difference.

Department's Position: We agree that home market commodity taxes either rebated or not included in the sales price due to exportation should be included in FMV, and the imputed U.S. commodity taxes in USP. Daewoo correctly notes that we failed to add the imputed taxes to USP in the ESP analysis, and that we did include home market taxes in FMV. For the final results we added an amount for imputed taxes to USP. *See* comment 1 above. We also made circumstance-of-sale adjustments to FMV, as in past reviews,

to preserve tax neutrality between the markets.

Comment 16: Zenith and the petitioners argue that the Department should impute inventory carrying costs for Daewoo, Goldstar, and Samsung ESP sales. Zenith and the petitioners submit that the Department should make the calculations based on the period from the date of shipment in Korea to the date of resale by the U.S. subsidiary, and that the costs should be based on the respondents' home market short-term cost of funds. Barring this, Zenith urges the Department at least to compute the carrying costs by using the transfer price and the home market interest rate for the period from the date of shipment to the date of importation into the United States, and the U.S. interest rate from the date of importation to the date of sale to the first unrelated customer. Zenith also argues that the adjustment should only be made for sales in the United States, not in the home market, since shipments of sets in the home market are made after the sales.

Samsung and Daewood argue that adjustments for inventory carrying charges should not be made at all because inventory carrying charges are incurred regardless of whether sales are made. Daewoo argues that if the Department insists on making the adjustment, the Department should use the U.S. short-term interest rate for the full period and that the calculation should be based on the cost of production, not the transfer price. Daewoo and Samsung further argue that if the Department insists on making an adjustment, inventory charges should be calculated for both FMV and USP. Samsung cites the final determination in *Televisions from Taiwan* (53 FR 49706, 49707 (1988)).

Samsung also points out that if the Department does impute these expenses, it should do so only up until the time of resale since direct credit expenses accrue from that point on.

Department's Position: Inventory carrying costs should be included in the indirect selling expenses deducted from ESP transactions and offset against similar indirect selling expenses incurred in the home market. We have taken this position repeatedly in both the Korean and Japanese television cases.

We used the transfer price between the Korean and U.S. related parties as the base for the inventory carrying cost computation. Since neither Samsung nor Goldstar provided the Department with dates of payment between their respective related parties, we used the period between the date of shipment from Korea to the date of sale to the first unrelated party in the United States to calculate carrying charges. As best information available, we used the home market interest rate to calculate inventory carrying costs from the date of shipment from Korea to the date of importation by the related party in the United States. We used the U.S. interest rate to calculate the inventory carrying costs from the date of importation to the date of sale to the first unrelated party in the United States.

We agree with the respondents that carrying costs should be imputed in the home market as well as the U.S. market. However, Goldstar ships its products only after sale in the home market, and neither Daewoo nor Samsung provided timely information which would have allowed us to calculate the number of days between shipment and sale to make the calculation. Therefore, we were unable to make the adjustment in the home market.

Comment 17: Zenith argues that its comments regarding inventory carrying costs for complete set sales of CTVs should apply equally to sales of incomplete CTVs for both Samsung and Goldstar. Samsung argues that the Department should limit the adjustments to ESP sales of complete sets since incomplete sets are assembled from Korean components, and component parts cannot be classified as televisions in inventory.

Department's Position: We agree with Samsung. Although CPTs and PCBs imported from Korea and subsequently assembled into CTVs in the United States are included in the scope of the order, CPTs and PCBs in and of themselves (*i.e.*, not subsequently assembled into CTVs) are not covered by this order. Imputed inventory carrying costs are based on the cost of carrying finished goods in inventory, not goods in progress, nor parts. Therefore, CPTs and PCBs were not included in the calculation of this cost.

Comment 18: Zenith argues that indirect selling expenses attributable to U.S. sales and incurred in Korea should be included in ESP.

Department's Position: We agree with Zenith and have made the appropriate adjustment according to Daewoo's information.

Comment 19: Zenith argues that the Department's calculation of taxes which were rebated or not collected upon exportation for addition to Daewoo's USP is flawed in that it was incorrectly based on unit sales prices rather than on ex-factory prices. Zenith further argues that the Department should make appropriate deductions from the U.S. sales price to arrive at an ex-factory price to serve as the calculation base. Daewoo supports the position taken by the Department in the preliminary analysis, noting that the home market tax base is not the ex-factory price as claimed by Zenith, but the net sales price.

Department's Position: We disagree with Zenith's assertion that ex-factory prices should be used as the tax base. After determining what the tax base is for this product in the home market, we must establish the equivalent tax base in the United States. The Korean home market commodity taxes are computed on the basis of "net sales price" to dealers. Since Daewoo sells to home market dealers on a delivered basis, the best "apples-to-apples" comparison is the delivered U.S. dealer price, *i.e.*, the price to the first unrelated party in the United States.

Comment 20: The petitioners claim that the Department erred in its ESP analysis by using one average exchange rate for the entire period. They argue that the Department should use the exchange rates in effect on the date of sale. Daewoo points out that the use of multiple exchange rates will complicate the programming.

Department's Position: We agree with the petitioners and have made the appropriate changes.

Comment 21: The petitioners argue that the Department erred in three ways in accepting Daewoo's interest rate calculations for both ESP and PP adjustments. First, petitioners note that Daewoo's reported interest rate should be one percent higher, as reflected in Daewoo's financial statements. Second, petitioners argue that the Department should not have used Daewoo's lowest reported interest rate to calculate ESP credit adjustments. The petitioners contend that the Department should use the average Federal Reserve prime rate plus one percent. Third, petitioners claim that the Department should have adjusted USP for inventory carrying costs.

Department's Position: The petitioners are correct that we should use the interest rate that corresponds to Daewoo's financial statements. In this case it is the Federal Reserve prime rate plus one percent. We have made the appropriate adjustment. Regarding the adjustment for inventory carrying costs, *see* comment 16.

Comment 22: The petitioners argue that the Department erred in not treating Daewoo's U.S. warranty return set loss expense as a direct selling expense in the ESP calculations. The petitioners further argue that Daewoo should not be rewarded for failing to provide

information on whether it is under obligation to replace CTVs sold to the U.S. market. Daewoo counters that in two of the three previous reviews of this order, the Department treated this expense as indirect because it could not be tied to specific U.S. sales and because significant portions of the expense are by definition indirect (such as technicians' salaries). Daewoo notes that if the Department decides to define return set loss as a direct expense, then it should also define it as direct for purposes of calculating FMV.

Department's Position: Daewoo provides a 90-day exchange warranty, whereby it accepts returns of defective CTVs for full credit. Therefore, we agree with the petitioners that U.S. return set loss relates to specific sales under review and should be treated as a direct expense (*see Televisions from Korea*, 53 FR 24985). We also agree with Daewoo that the expense should be treated as direct in the home market as well. Our final results of review reflect these changes.

Comment 23: The petitioners argue that Daewoo's failure to provide home market movement charges on a model-by-model and a month-by-month basis should be addressed by the Department with the appropriate best information available. Furthermore, the Department should deny Daewoo's home market-to-customer inland freight claim.

Department's Position: We have determined that the variations in home market inland freight charges (*i.e.*, model-to-model differences) are insignificant. In accordance with § 353.59 of the regulations, we have disregarded such variations. We agree with the petitioners, however, that Daewoo's depot-to-customer inland freight claim should be denied since Daewoo regularly ships this product to regional warehouses prior to sale, making the expense an indirect selling expense.

Comment 24: The petitioners argue that document handling fees paid to a related party in the United States should be considered expenses directly related to the sales under review for purposes of calculating ESP. Daewoo notes that these payments are intra-company transfers and should be treated as indirect selling expenses.

Department's Position: We disagree with the petitioners. As we have determined in previous reviews, these payments, while they can be tied directly to particular sales, are only intra-company transfers of funds, which we do not treat as expenses.

Comment 25: The petitioners allege that Daewoo's physical difference in merchandise claim includes adjustments for differences in costs for identical parts and should therefore be denied since only differences in costs arising from actual physical differences can be allowed.

Department's Position: We disagree. The petitioners have misinterpreted Daewoo's data. Daewoo addressed the issue of certain identical parts having different costs. Daewoo specifically excluded the difference in costs attributable to identical parts from its physical difference claim. It based its claim on cost differences due only to actual physical differences.

Comment 26: The petitioners argue that the Department should not have used Daewoo's sales to all home market customers, since some sales are not in the ordinary course of trade or have some other anomaly that makes them noncomparable with U.S. sales. Daewoo concurs with the petitioners' assessment.

Department's Position: We agree and have excluded from the home market database "coupon" sales, sales to the military, and other miscellaneous extraordinary sales because these sales are not in the ordinary course of trade.

Comment 27: The petitioners and Daewoo agree that the Department, in its PP analysis, failed to reduce USP by an amount for parts supplied free of charge by Daewoo's U.S. subsidiary to dealers for warranty repairs. This is inconsistent with the Department's ESP calculations, where such a reduction was made.

Department's Position: We agree and have changed the PP analysis to match the ESP analysis.

Comment 28: The petitioners note that the claim for customs duties should be recalculated if customs duties were understated due to after-shipment ocean freight rebates. Daewoo points out that it sells the merchandise to its U.S. subsidiary on an FOB Korea basis, not on a CIF or C&F U.S. port basis. Therefore, all customs duties are assessed on the actual invoiced FOB value, which does not include ocean freight.

Department's Position: Since the Customs Service calculates duties on the FOB value of the merchandise, the petitioners' point is moot.

Comment 29: Daewoo claims that wages and salaries associated with after-sales service should be treated as direct, not indirect, expenses. Daewoo notes that in the home market, after-sales servicing is done almost exclusively by in-house labor, while in the United States servicing is done by independent companies. Therefore, most home market warranty expenses are indirect while most U.S. warranty expenses are direct. Daewoo cites the remand in *AOC Int'l., Inc.* v. *United States*, 13 CIT _____, 721 F. Supp. 314 (1989), in support of its position. Both Zenith and the petitioners argue against this, pointing out that *AOC* is not final. Goldstar argues that all of its home market in-house warranty expenses, including salaries, bonuses, benefits, and supplies should be treated as direct expenses. Goldstar cites the *AOC* remand in support of its position. The petitioners point out that regardless of the facts in *AOC*, Goldstar did not demonstrate that those expenses should be considered direct.

Department's Position: We disagree with both Goldstar and Daewoo. Both companies rely completely on the *AOC* decision to back up their claims. However, the *AOC* remand order is not a final decision, is not yet ripe for appeal, and may yet be reversed. Therefore, we see no reason to reverse our long-standing policy on this issue. As the petitioners point out, neither Goldstar nor Daewoo has made an attempt to demonstrate that the facts of this case and *AOC* are similar, nor has either company attempted to demonstrate that all of its warranty expenses are directly related to the sales under review.

Comment 30: Daewoo argues that the Department should consider inland freight charges from the factory to regional warehouses to be direct expenses in calculating FMV. Daewoo cites the Department's preliminary determination in *Certain Fresh Cut Flowers from Ecuador* (54 FR 47247) and the *AOC* remand order in support of its position. Zenith disagrees and refers to *Silver Reed America, Inc.* v. *United States*, 581 F. Supp 1290 (CIT 1984), which establishes that such costs are general overhead costs and therefore indirect expenses. The petitioners point to the Department's third review position and claim that the facts in this case and *AOC* are different.

Department's Position: In this review we have followed our practice as stated in the final results of the previous review of this order (53 FR 24988, Comment 72). We disagree that the freight expense from the factory to the regional warehouses is directly related to any one sale. Daewoo stores its merchandise in the regional warehouses in anticipation of sales. Any freight costs to transport a television to the warehouses are incurred prior to the sale, not as a result of the sale. Therefore, we have treated freight expenses from Daewoo's factory to its warehouses as an indirect selling expense. Further, as noted in the

response to comment 29, since the *AOC* decision is not a final decision, and since the facts in *AOC* are different, we see no basis for reversing our position.

Comment 31: Daewoo suggests that since the Department required the submission of sales data from outside the period of review in the event that comparisions had to be made using the 90/60 day rule, the Department should use the data submitted during earlier reviews for comparision. In the event that the Department is unable to use data from proprietary submissions from other reviews, Daewoo supplied missing sales adjustment data for those periods along with its post-preliminary comments. Both Zenith and the petitioners argue that Daewoo's original submission of data should have contained the appropriate sales adjustment information and that the Department should not allow the use of additional data submitted after the preliminary results.

Department's Position: We were able to obtain adequate model matches without going outside the period of review of data. Therefore, the parties' comments are moot.

Comment 32: Daewoo points out that in the Department's ESP analysis, the Department failed to add to USP taxes rebated or not collected due to export and failed to make a circumstance-of-sale adjustment to FMV for such taxes. Zenith contends that the Department should not make a circumstance-of-sale adjustment for tax equalization.

Department's Position: We added to ESP sales taxes rebated or not collected due to exportation, and we made a circumstance-of-sale adjustment to FMV in order to ensure tax neutrality. (*See* our positions under comments 1 and 15 *supra.)*

Quantronics

Comment 33: The petitioners argue that the Department incorrectly allocated Quantronics' foreign inland and freight charges. Quantronics agrees but claims that these expenses are part of the statutory minimum SG&A expense for constructed value. Therefore, there will be no change in the margins.

Department's Position: We agree with the petitioners and have made the corrections. We disagree with Quantronics' classification of inland freight as an SG&A expense. Rather, inland freight is a movement expense.

Comment 34: The petitioners argue that the Department erred in classifying certain movement charges, *i.e.*, customs clearance fees and export recommendaton fees, as SG&A expences. Additionally, petitioners argue that the Department erred in using yearly average amounts for these claims instead of actual per shipment figures.

Department's Position: We agree with the petitioners that the claims in question should be classified as movement expenses, not as SG&A expenses, and have made the appropriate reclassifications. However, given the extremely small differences between the per shipment figures and annual averages, we disagree with the petitioners that the use of yearly averages is inappropriate. Nonetheless, we made the allocations on a per shipment basis since the information was readily available and the data base was small.

Comment 35: Regarding inland freight charges, Quantronics argues that since the Department calculated the constructed value of the U.S. product there is in essence only one market. Since the statute instructs the Department to account for differences in the circumstances of sale between markets, the Department cannot adjust for differences in comparing the same item in the same market. Quantronics notes that if the Department insists on making adjustments to USP, it should also make them to FMV.

Department's Position: We erred in accepting Quantronics' classification of movement costs as SG&A expenses in our preliminary analysis. Because we have reclassified these charges as movement costs (which do not involve circumstance-of-sale adjustments), Quantronics' comments regarding circumstance-of-sale adjustments in constructed value are moot.

Comment 36: The petitioners argue that the Department erred in including an amount entitled "other income" from Quantronics' response in the constructed value analysis. This amount includes items not directly related to the company's operations and that are not used by the company in calculating operating income. Quantronics argues that since its entire operations relate to the production and sale of CTVs for the U.S. market, any income must logically be related to the sale of CTVs in the United States and should be included in the Department's analysis.

Department's Position: Nowhere in the record does Quantronics specify how this "other income" is derived. We agree with the petitioners that, barring a direct tie to sales, this "other income" should be excluded from the constructed value calculation. We note, however, that after removing this item from the constructed value calculation, the amounts for SG&A expense are still below the statutory minimum.

Comment 37: The petitioners argue that the Department incorrectly calculated Quantronics' SG&A expenses by using the ten percent statutory minimum of the cost of manufacture for certain U.S. sales in calculating constructed value. Since the company's first quarter SG&A expenses exceeded the ten-percent minimum, petitioners argue that the Department should use actual SG&A expenses rather than the statutory minimum amount. Quantronics disagrees and notes that the use of quarterly data distorts the analysis due to short-term fluctuations in costs. Such costs should be spread throughout the entire period of review. Quantronics also points out that the Department normally does not use less than annual costs.

Department's Position: We disagree with the petitioners. We used the statutory minimum ten percent because, on an annual basis, Quantronics' actual SG&A was less than the statutory minimum. *See* also our response to comment 10 regarding the use of quarterly data in evaluating production costs.

Comment 38: The petitioners state that the Department's use of one average credit expense for all sales is unreasonable in that it fails to take into account the significant differences in credit costs due to differing terms of sale. Quantronics responds that the credit expense is already reported in SG&A and is below the statutory minimum. Therefore, changing the allocation to a sale-by-sale basis has no effect.

Department's Position: We agree with both the petitioners and Quantronics. Quantronics' credit expenses vary markedly on a sale-by-sale basis, and we would normally require these expenses to be tied to specific sales. However, as Quantronics points out, regardless of the method of allocation, total SG&A expenses are still below the statutory minimum.

Comment 39: Quantronics notes that the Department's preliminary margin calculation was inaccurate since the total for potential unpaid dumping duties was incorrectly calculated.

Department's Position: We agree and have made the appropriate corrections.

Comment 40: Quantronics argues that inland freight should be deducted from the Department's constructed value calculation as a circumstance-of-sale adjustment. Zenith argues that the Department should not deduct inland freight from constructed value since Quantronics' SG&A was based on the statutory ten-percent minimum. Zenith cites *Funai* (CIT 1989) to support its

argument that the Department should actually increase constructed value by all identifiable PP adjustments.

Department's Position: We disagree with both Quantronics and Zenith. As the petitioners correctly point out in their reply brief, inland freight is clearly a movement charge. No adjustment should be made since the constructed value is based on ex-factory terms prior to the addition of freight charges.

Comment 41: Quantronics requests that its fifth review data be evaluated in the current review, noting that fifth review data for Cosmos was considered during this proceeding. Both Zenith and the petitioners argue against this, noting that it will only delay the publication of the final results.

Department's Position: We could not comply with Quantronics' request as it would have resulted in additional delays in completion of this review. We considered Cosmos' fifth review data in the current proceeding for two reasons: Cosmos had not been previously reviewed and was therefore subject to the Department's "all other" duty deposit rate, and reviewing Cosmos' data did not pose a significant burden on the Department. Neither reason applies to Quantronics in this proceeding.

Samsung

Comment 42: Samsung, Zenith, and the petitioners submitted comments concerning various mathematical, computer programming, and clerical errors in the Department's preliminary results analysis of Samsung's response.

Department's Position: We have made the following corrections to the appropriate programs in our final results calculations for Samsung: in the indirect purchase price (IPP) computer program, we have corrected an incorrectly coded U.S. television model, which caused errors in calculating royalty values; missing data in certain variables in the U.S. sales data base have been input; and foreign freight forwarding charges were corrected to be direct expenses rather than indirect expenses and were excluded from the ESP cap.

Comment 43: Samsung maintains that its "Major Products Promotional" (MPP) rebate provides a quantity discount which should be applied in calculating FMV in accordance with § 353.55 of the Commerce regulations. Additionally, Samsung notes that since it granted quantity discounts of at least the same magnitude on 20 percent or more of its sales of such or similar merchandise, FMV should be based on the sales with the quantity discounts. Both the petitioners and Zenith retort that the MPP rebate is a cumulative volume rebate, not a quantity discount, and therefore FMV should be based on all sales under consideration, not just those sales which received the MPP rebates.

Department's Position: We disagree with Samsung and agree with the petitioners that the MPP rebate is a cumulative volume rebate. Adjustments for quantity discounts under § 353.55 of the Commerce regulations are based on the premise that higher volume sales lead to cost savings on each individual sale used to establish FMV. Samsung, in fact, demonstrated that the MPP rebate is based on cumulative sales, many of which were low-volume sales. Therefore, we denied Samsung's request that we base FMV exclusively on those sales which received the MPP rebate, and we further denied Samsung's request that the rebate rate be applied to all home market sales under consideration. However, since the rebate was paid on certain sales under consideration, it qualifies as a circumstance-of-sale adjustment to those particular sales.

Comment 44: Samsung argues that its "Installment Sales Incentive" (ISI) rebate should not be considered an indirect selling expense in the home market, but rather a direct expense. Samsung notes that in previous reviews, the rebate was considered an indirect expense either because the Department deemed the rebate to be an after-sale rebate or because it was not identified on a model-by-model basis. Samsung notes that in this review the rebate is allocated to specific sales using actual costs. Samsung further claims that the rebate should be allocated on a screen-size and tuning-type basis rather than on a model-by-model basis, since model-by-model allocations lead to distortions based on widely varying sales volumes of particular models over particular time periods.

The petitioners disagree with Samsung's claim, citing the Department's response to comment 60 in the third review final determination (53 FR 24986), where the Department determined the expense to be indirect. Zenith argues that the ISI rebate claim should not be allowed as either a direct or indirect adjustment. At most, Zenith argues it should only be allowed as an indirect selling expense to the extent that it applies to the sales under review. Since ISI rebates are partially based on sales prior to the current review period, Zenith argues that the Department should reduce the adjustment by any amount attributable to sales outside of the review period.

Department's Position: We have reviewed our preliminary decision on this issue and have determined that the rebate should be treated as a direct expense. Samsung cannot identify which particular sets qualified for the rebate since the rebate is based on sales of individual units by independent dealers. However, these dealers were aware of the rebate program prior to purchases, we verified that Samsung credited its dealers with the claimed rebate amounts, and all models were eligible for the rebate program. Additionally, there were no changes in benefits or major terms of the rebate between or during applicable periods of review. We therefore conclude that Samsung's allocation of these expenses over all models is a reasonable method of quantifying the expense.

Comment 46: Samsung argues that all of its home market in-house warranty expenses, including salaries, bonuses, benefits, supplies, etc., should be treated as direct expenses. Samsung cites the *AOC* remand in support of its position. The petitioners disagree, noting that *AOC* is not final and that Samsung must demonstrate the direct nature of the expenses in order to have them qualify as such.

Department's Position: We disagree with Samsung. Samsung never demonstrated that the expenses were directly related to sales. *See* our response to a similar claim by Daewoo in comment 29 of these final results.

Comment 47: Samsung argues that bad debt should be treated as a direct expense. Samsung cites the remand of the first reveiw in this case and argues that bad debt is similar to warranty in that historical cost data can be used as best information available in order to determine the amount of the claim. The petitioners note that Samsung's claim is not timely and that the company made no attempt to tie bad debt directly to the sales under review. Further, both the petitioners and Zenith point out that both the first review remand and *AOC* are not final decisions and that the Department should not change its policy.

Department's Position: Pursuant to the court's instruction, we treated bad debt in the same manner as warranty for purposes of the remand determination regarding the first administrative review. The remand order is not a final decision, is not yet ripe for appeal, and may yet be reversed. Therefore, in this review, we treated Samsung's bad debt claims as indirect expenses because the company could not tie its claims to specific sales made during the period of review.

Comment 48: Samsung argues that all home market inland freight costs, including factory-to-warehouse freight,

should be considered direct expenses. Samsung cites the *AOC* remand in support of its position. The petioners argue that this issue was decided against Samsung in the third review of this case.

Department's Position: In this review we have followed our practice as stated in the final results of the third review of this order (53 FR 24988, Comment 72). We disagree that the freight expense from the factory to the warehouses is an expense directly related to any one sale. Samsung stores its merchandies in warehouses in anticipation of sales. Therefore, any freight costs to transport CTVs to the warehouses are incurred prior to sales and are not the result of sales. We have therefore treated these expenses as indirect selling expenses.

Comment 49: Samsung notes that it included imputed credit in its constructed value calculations, but it believes that the other respondents did not. If this is correct, Samsung requests that imputed credit be removed from its constructed value equation.

Department's Position: All companies correctly included imputed credit in their constructed value calculations.

Comment 50: Zenith argues that the calculation of taxes rebated upon export and added to Samsung's USP is flawed in that it was incorrectly based on the unit sales price rather than on ex-factory prices. Zenith further argues that the Department should make appropriate deductions from the U.S. sales price to arrive at an ex-factory price to serve as the calculation base. Samsung notes that Zenith is incorrect. The home market base is a net dealer or delivered price, not an ex-factory price. Samsung suggests that the most reasonable price on which to base the calculations is the FOB Korean port price.

Department's Position: We disagree with Zenith. *See* our response to comment 19 above.

Comment 51: Zenith argues that for sales of incomplete CTVs by both Samsung and Goldstar, the Department erred in its allocation of U.S. packing expenses. The Department accounted for U.S. packing costs by subtracting home market packing costs for PCBs and CPTs and adding U.S. packing for completed CTVs to FMV. Zenith argues that since U.S. packing is made up entirely of U.S. labor and materials, it should simply be deducted from USP in accordance with section 772(e)(3) of the Tariff Act instead of adding it to FMV.

Department's Position: We agree with Zenith. When using constructed value for FMV, the statute instructs us to calculate the packed, ready-for-shipment price of the merchandise exported to the United States. Therefore, the value of packing materials and labor for CPTs and PCBs must not be deducted from FMV.

For USP, we subtracted all expenses incurred in the United States (including packing materials and labor), plus allocated U.S. profit, to arrive at the value of the goods (*i.e.*, the packed PCB and CPT) as entered into the United States. We then subtracted all movement expenses to return to the packed ex-factory price of the goods for comparison to constructed value. Subtracting the value of U.S. packing of completed televisions from FMV, as done in the preliminary analysis, distorts the value of packing for FMV since the constructed value of the goods already includes export packing costs. *See* also our position under comment 52 below.

Comment 52: Samsung argues that U.S. packing should not be removed from ESP since the statute requires that amounts deducted from ESP should be the result of "a process of manufacture or assembly performed on the imported merchandise * * *," § 772(e)(3), and packing is not a process of manufacture or assembly. Samsung argues further that packing is a process incidental to the sale of a CTV. If the Department includes packing on the U.S. side of the equation, it must include it in constructed value to make a fair comparison.

Department's Position: We disagree. Although packing is not part of the cost of manufacture, it is clearly part of the increased value referred to in section 772(e)(3) since it would be impossible to sell televisions without adequate protection to the merchandise. Because our constructed value calculation includes packing only for PCBs and CPTs, we deducted from ESP packing for CTVs (leaving in packing for the PCBs and CPTs) in order to achieve an apples-to-apples comparison.

Comment 53: Zenith disagrees with the Department's use of Samsung's reported "adjusted" constructed value as Samsung's figures include a reduction to FMV for the entire amount of home market selling expenses without limiting them to the amount of U.S. indirect selling expenses. Additionally, Zenith alleges that the use of Samsung's adjusted constructed value figures does not take into account claims which were disallowed by the Department.

Department's Position: We agree with Zenith and have taken into account the claims which we disallowed. Where home market indirect expenses exceeded indirect selling expenses in the U.S. market, we have limited the claim to the value of the U.S. indirects.

Comment 54: The petitioners claim that the Department erred in accepting Samsung's home market warranty parts claim since Samsung buys parts from related parties and did not demonstrate that these purchases were at arm's length. Samsung claims that the Department verified the arm's length nature of the related warranty parts pricing.

Department's Position: We verified Samsung's related and unrelated parts purchases while we were determining the accuracy of the constructed value portion of Samsung's response. We determined that Samsung's related parts purchases were made at the fully absorbed cost of production, and we therefore have accepted Samsung's claim.

Comment 55: The petitioners argue that the Department unreasonably accepted Samsung's home market credit expense claim. The use of one overall accounts receivable turnover rate distorts the credit claim because it is not tied to particular sales or particular customers. Also the short-term interest rate is not supported by complete information: Samsung's exclusion of usance loans is incorrect as they are a form of short-term borrowing. The petitioners propose that since Samsung did not report information on usance loans, the Department should use as best information available the lowest interest rate, the usance rate, reported by Samsung in its financials. Samsung responds that it did submit its usance loan data in its response to the Department's deficiency letter. It did not, however, include usance loans in calculating its short-term interest rate since it was required by the Department to use only short-term, general-purpose borrowings for this purpose. Samsung argues that funds for usance loans are not provided directly to Samsung but rather to its suppliers. The funds are for the limited use of financing materials purchases and are never available to Samsung for general financing purposes. In defense of the use of one overall accounts receivable turnover rate, Sumsung notes that the use of customer-by-customer rates would distort the turnover rate to the extent that an individual customer's purchases are not based on CTV purchases.

Department's Position: We agree with Samsung that these particular usance loans, which are not available for general financing purposes such as accounts receivable, were properly excluded from the calculation of the company's average short-term borrowing rate. Regarding the use of one overall accounts receivable turnover

rate, Samsung's accounting system is not designed to achieve a customer-by-customer breakdown for CTV purchases only. Nonetheless, we have concluded that the use of the overall turnover ratio is an acceptable measure of Samsung's turnover rate for CTVs.

Comment 56: The petitioners claim that Samsung's reported foreign inland freight movement charges are unreasonable for incomplete CTVs sold in the United States since they are based on sales value. The petitioners ask that the Department use as best information available a rate equal to the highest reported movement charge for incomplete CTVs.

Department's Position: As Samsung points out in its rebuttal comments, it reallocated its claim on the basis of quantity shipped, rather than quantity sold, as requested by petitioners. We have used the quantity shipped as the basis for calculating the foreign inland freight expense.

Comment 57: The petitioners note that the Department, in its ESP calculations, failed to make an adjustment for Samsung's inventory carrying costs. Samsung argues that the Department should not impute inventory carrying costs because they are not a selling expense, nor even a real cost. Samsung notes that if the Department imputes such costs it should limit the adjustment to sales of completed CTVs, use a period only up to the time of resale, and should use the U.S. interest rate since the sets are carried on the books of the U.S. subsidiary from the time of export. Samsung also argues that if the Department imputes such costs in the United States, it should also impute them in the home market.

Department's Position: We have made the adjustment according to the methodology explained in our position under comment 16 in these final results since Samsung did not provide the type of data that would have allowed us to do otherwise.

Comment 58: The petitioners and Samsung point out that the Department failed to use Samsung's revised freight allowance and instead used the claim as made in the original questionnaire response.

Department's Position: We agree and have made the appropriate adjustments.

Comment 59: The petitioners note that the Department failed to use Samsung's revised U.S. cash discount and promotional discount adjustments. These amounts are dealer-specific. The petitioners propose that as best information available the Department allocate these dealer-specific rates to specific transactions by dividing the total per dealer discounts by sales of televisions to each dealer. Samsung agrees that the Department should use its revised data but disagrees with the petitioners' transaction-specific methodology. Samsung notes that since dealers buy a variety of products from Samsung, distributing total discounts over only television sales would overstate the margin.

Department's Position: There is no information on the record regarding the ratio of total dealer-specific color television sales to total dealer-specific sales of all products. The methodology proposed by the petitioner clearly would skew the discount amount allocated to color televisions to the extent that dealers purchased other products. As best information available, we have used the total discounts and divided them by total dealer sales to obtain an appropriate allocation amount.

Comment 60: The petitioners claim that the Department erroneously accepted that portion of Samsung's difference-in-merchandise claim that was based on nonphysical characteristics.

Department's Position: We disagree with the petitioners. We only made adjustments that were due to physical differences in merchandise. *See* also our response to comment 25.

Comment 61: The petitioners assert that Samsung's U.S. warranty claim should be revised. Samsung submitted its U.S. warranty claims on a model-by-model basis using an average cost over the past three years. The Department also asked Samsung to submit its actual costs during the period of review. Samsung complied, but only gave total warranty costs for the period of review, not model-by-model costs. The petitioners propose that the Department use current review period figures, but on a model-by-model basis only. Samsung notes that during the third review the Department determined that the petitioners' proposed method would distort the claim.

Department's Position: We disagree with the petitioners. There is nothing in this review period to suggest that Samsung's methodology should be revised. *See* our response to comment 58 in the final results of the third administrative review of this case (53 FR 24985).

Comment 62: The petitioners believe that Samsung's constructed value figures should be corrected to include amounts for general and administrative expenses. Additionally, the petitioners note that transfer prices of parts from Samsung's related party varied from below cost to above cost. The petitioners ask the Department to ensure that at a minimum, all parts are valued at the fully absorbed cost of production.

Department's Position: Samsung's constructed value figures do include general and administrative expenses. As for related parts purchases, the petitioners are correct that some parts purchases were made at less than the fully absorbed cost of production. However, on a yearly average cost basis, parts purchases were made at the fully absorbed cost of production. As we explained in comment 10, we have determined that yearly average costs provide the most accurate measure of actual costs. We therefore conclude that Samsung's constructed value figures are an adequate reflection of its costs.

Comment 63: Samsung contends that Korean forwarding charges should not be considered indirect selling expenses but rather direct movement costs.

Department's Position: We agree and have made the appropriate changes.

Goldstar

Comment 64: Goldstar, Zenith, and the petitioners submitted comments concerning various mathematical, computer programming, and clerical errors in the Department's preliminary results analysis of Goldstar's response.

Department's Position: We made the following corrections to the preliminary analysis computer programs for Goldstar: duty drawback was added to U.S. price rather than subtracted from U.S. price; home market rebates were deducted from FMV; a programming error which dropped the ESP offset from constructed value comparisons was corrected; taxes inadvertently added to constructed value were deleted; in the ESP program a programming error which dropped the constructed value data set was corrected; the double counting of certain home market sales in the ESP computer program was eliminated; inappropriate model matches caused by computer errors in the "90/60" day sales comparison were eliminated; and certain data input errors regarding constructed value and dealer cooperative advertising amounts were corrected.

The petitioners also contend that we added Korean export recommendation fees to USP instead of subtracting them. The petitioners are incorrect. In fact, we made the correct ajustment in our preliminary determination. Zenith alleged that Goldstar miscalculated the profit for CTVs in its constructed value submission. Goldstar did miscalculate the profit rate on one of its models; however, the remaining rates were correctly calculated. We have made the appropriate adjustment to our computer

program to reflect the one changed value.

Comment 65: Regarding the test for home market sales below the cost of production, Zenith notes that the Department applied general expense and financing cost ratios to values representing Goldstar's costs of manufacturing and packing. Zenith argues that since these expense ratios were developed on the basis of sales value, not manufacturing costs, they are incorrect.

Department's Position: We agree that in a cost of production analysis, it is appropriate to use manufacturing, not sales, expense ratios. We recomputed the ratios on the basis of manufacturing costs and applied them to our sales-below-cost test.

Comment 66: Goldstar argues that the Department should follow the court's instructions in *Timken Co.* v. *United States*, 673 F. Supp 495 (CIT 1987), and *Toho Titanium Co., Ltd.* v. *United States*, 657 F. Supp 1280 (CIT 1987), and not exclude any sales made below cost unless they were made over an extended period of time in substantial quantities and were not at prices which would permit the recovery of all costs within a reasonable period of time in the normal course of trade. Goldstar submits that none of its sales can be disregarded using this standard since its entire class or kind of merchandise shows profitability in every business cycle. Zenith requests that the Department apply the 10–90 rule, in which home market sales are disregarded if more than 10 percent of the sales by quantity were made below cost, to individual models to determine the home market sales base to be used for comparison.

Department's Position: After making corrections to our sales-below-cost analysis, we determine that at least 90 percent of Goldstar's comparison models were above the cost of production. Therefore, there is no need to exclude any below-cost sales from our analysis.

Comment 67: Zenith argues that in the purchase price analysis, the Department erroneously used the fully-loaded CIF duty paid price instead of the ex-factory price as the base for calculating the amount of taxes rebated upon exportation. Zenith submits that the Department should therefore adjust the tax base. Goldstar states that Zenith is correct that PP sales sold on a CIF basis should be adjusted, but only to an FOB Korean port basis. Those sales made on an FOB basis need no further adjustment.

Department's Position: We disagree with both Zenith and Goldstar. Because the Korean tax base is the net dealer delivered price, we used the price to the first unrelated customer in the United States as the U.S. tax base. *See* also comment 19.

Comment 68: Zenith agrees with the Department that inventory carrying costs should be imputed for Goldstar's ESP sales, but argues that the adjustment should only be made to U.S. sales, not home market sales, because Goldstar incurs no inventory costs after the sets leave the factory in the home market. Goldstar argues that if the Department deducts imputed inventory costs from USP, the Department should do the same in the home market. Goldstar cites *Certain Small Business Telephone Systems and Subassemblies thereof from Korea* (54 FR 53143) and *Korean CTVs* (53 FR 24976).

Department's Position: To the extent that inventory carrying charges are accrued in both markets, we should make adjustments to both FMV and USP. However, because Goldstar did not provide timely information as to the length of time between production and sale of goods in the home market, we cannot make this adjustment in the home market. Goldstar failed to provide adequate data until its post-preliminary brief. Because of this untimely submission, we cannot accept the data. Accordingly we used the same methodology described under comments 16 and 57.

Comment 69: Zenith notes that Korean container yard fees and U.S. merchandise processing fees should be subtracted from USP and the ESP analysis.

Department's Position: We agree with Zenith. These fees are movement charges, and we have subtracted them from USP in the ESP analysis.

Comment 70: Goldstar disagrees with the Department's deduction of profit in situations involving further assembly of the product under consideration in the United States. Goldstar cites section 772(e)(3), which directs the Department to make allowances for "additional material and labor." Goldstar argues that the statute does not include an allowance for profit, only for additional material and labor. Additionally Goldstar argues that even if the Department insists on making an allowance for profit, the Department's reallocation of profit derived from U.S. value added in effect removes all profit earned on the product from the calculation. Goldstar also cites *Sonco Steel Tube Div., Ferrum, Inc.* v. *United States*, 694 F. Sup 959 (CIT 1988) and *Timken*, where the CIT decided that profit earned by a foreign producer's U.S. subsidiary should not be deducted from ESP. The petitioners point out that in the final determinations in *Telephones* (54 FR 53143) and in *Color Picture Tubes from Japan* (52 FR 44173), the Department used the same methodology as in the present case to determine profit allocations.

Department's Position: We disagree with Goldstar that the statute limits allowances to additional material and labor added in further assembly operations in the United States. The statute states that "any increased value, including additional material and labor" (emphasis added) should be taken into account in determining USP in ESP situations involving further assembly. We further disagree that our allocation methodology effectively eliminates all profit made on sales of the product. We simply deducted the percentage of profit attributable to U.S. value added.

Comment 71: Zenith argues that the Department erred in using Samsung's constructed value figures for incomplete televisions since Samsung deducted all selling expenses without respect to the amount of the ESP offset cap.

Department's Position: We agree with Zenith and have taken the amount of the ESP offset cap into consideration in determining the constructed value figures for Samsung.

Comment 72: The petitioners argue that the Department unreasonably accepted Goldstar's home market factory-to-regional warehouse inland freight claim as a direct expense.

Department's Position: We disagree. Goldstar ships its products to its regional warehouses only after sale. The regional warehouses are used as staging areas to consolidate freight from various Goldstar factories for final delivery to customers. This is in contrast to Daewoo's which ships goods to its regional warehouses in anticipation of sales. In Daewoo's case the freight cost to the warehouses is clearly an indirect expense since it is incurred prior to any sales being made. For Goldstar, however, the freight cost is a direct expense because it occurs after sales are made.

Comment 73: The petitioners argue that the Department unreasonably included Goldstar's home market sales to collective end-users in the weighted average FMV calculations.

Department's Position: We agree with the petitioners. Goldstar's sales to collective end-users were erroneously used in the preliminary analysis. In keeping with the methodology of previous reviews we have excluded these sales in our final analysis because they are not at the same level of trade as sales to the United States. (*See* our

response to comment 49 in the final results of the third review of this case (49 FR 2484)).

Comment 74: The petitioners ask that if the Department does exclude sales to collective end-users, then the Department should refrain from deducting home market handling charges and sales commission adjustments. Goldstar notes that some handling charges applied to noncollective end-user sales, and these amounts should be deducted regardless of the Department's treatment of collective end-user sales.

Department's Position: The petitioners' point is moot with respect to sales commissions since home market sales commissions only applied to sales which were excluded from the home market data base (*i.e.*, collective end-user sales). We deducted handling charges that applied to noncollective end-user sales because such charges are clearly movement expenses.

Comment 75: Regarding the Department's analysis of sales below cost in the home market, both the petitioners and Goldstar maintain that the Department should have used transaction-specific selling expenses rather than weighted averages.

Department's Position: We agree and have used Goldstar's transaction-specific data.

Comment 76: The petitioners argue that the Department unreasonably accepted Goldstar's reported PSP rebate claim. The petitioners contend that Goldstar is unable to tie its PSP rebate claim to specific sales, that Goldstar fails to explain how it segregated CTV-specific PSP rebates from all PSP rebates, that it only reports one average PSP rebate by customer even though the rebates varied at different times during the period of review and, finally, that it granted the rebates only on factoring credit sales, and these sales are not segregated from other sales. Goldstar cites *Smith-Corona Group* v. *United States*, 713 F.2nd 1568 (Fed. Cir. 1983), where a similar rebate was allowed, and also notes that its rebates were verified as accurate.

Department's Position: We have reconsidered our treatment of Goldstar's PSP rebate, and we now agree with the petitioners that the rebate cannot be treated as a direct expense. Goldstar only reported one overall rate for the rebate for the entire period. Unlike other expenses that vary minimally throughout an accounting period, Goldstar's PSP rebate percentages varied greatly throughout the period of review. Since the Department computes a monthly weighted average FMV, using an average of widely varying expenses throughout the period of review would result in distortions to particular monthly FMVs. Goldstar is correct, however, that the total rebate amounts were verified. Since we know that Goldstar did make these payments, we have allowed the rebate as an indirect selling expense.

Comment 77: The petitioners claim that the Department erred in allowing a portion of Goldstar's differences-in-merchandise adjustment that is attributable to nonphysical differences in the merchandise, specifically, differences in costs of identical components.

Department's Position: We disagree. Goldstar excluded differences in the cost of identical parts in calculating its differences-in-merchandise claim.

Comment 78: The petitioners argue that the Department erred in accepting Goldstar's home market credit expense claim because Goldstar based its claim on average accounts and notes receivable collection periods for all products sold by its Domestic Sales Division. Additionally, Goldstar did not tie its claim to the CTV sales under review, and the collection periods vary from customer to customer. Goldstar notes that the Department accepted the same credit methodology in previous reviews.

Department's Position: We disagree with the petitioners. Goldstar sells a variety of products and maintains its accounts receivable on an open account basis. Therefore it is impossible for Goldstar to calculate a turnover period for CTVs only. We verified Goldstar's claim and are satisfied that basing the claim on the average balance of accounts receivable accurately reflects the credit costs incurred on sales of CTVs for the period of review.

Comment 79: The petitioners claim that the Department erred in allowing Goldstar's home market advertising claim as a direct expense since Goldstar did not show that its advertising expenses were at arm's length and since Goldstar also included amounts for promotional expenses such as gifts and leaflets, audio and video shows, promotional shipment, used product trade-ins, and "other," none of which was adequately explained. Goldstar disagrees, pointing out that the Department verified that all claimed advertising expenses related directly to Goldstar's home market CTV sales and that they were at arm's length prices.

Department's Position: We disagree with the petitioners. We verified all claimed advertising and sales promotional expenses and found that they were at arm's length prices and that they were related to the sales under review. Of the expenses questioned by the petitioners, those for promotional gifts and leaflets, audio and video shows, and promotional shipment were directed to the ultimate customer, not the franchise stores. Therefore, we allowed them as direct expenses. We did not allow Goldstar's expenses for used product trade-ins and "other" promotional expenses because these expenses did not apply to CTV sales.

Comment 80: The petitioners assert that the Department acted unreasonably in treating Goldstar's home market repair parts costs as a direct expense even though Goldstar did not submit a "detailed list" of the free parts used in warranty repairs and the cost of these parts on a model-by-model basis. Goldstar argues that its warranty parts cost was verified by the Department and that Goldstar responded in full to the Department's inquiries.

Department's Position: We disagree with the petitioners. We verified Goldstar's repair parts cost by selecting numerous examples of parts and their costs, and we tied the costs to the company's accounting records. We found no discrepancies in Goldstar's claim.

Comment 81: The petitioners argue that Goldstar's ESP credit expense adjustment is unreasonable because Goldstar did not provide a list of its short-term borrowings or worksheets to substantiate its claim and because its calculation of "effective" short-term interest rates does not take into account average outstanding balances.

Department's Position: We disagree with the petitioners. At verification we reviewed the list of all loans outstanding during the review period and found no discrepancies with Goldstar's response, nor with its financial records.

Comment 82: The petitioners argue that the Department erred in accepting Goldstar's reported U.S. warranty expense adjustment since the home market warranty calculation includes freight and delivery charges, but the U.S. calculation does not. Additionally, the petitioners argue that Goldstar unreasonably applied different methodologies to match sales of CTVs to actual warranty expenses in the United States and in the home market.

Department's Position: We disagree with the petitioners. We verified Goldstar's warranty claim and found that it was accurate and consistent with claims made in prior reviews. Warranty claims, by their nature, are based on historical costs because they usually are incurred well after the sales are made, often over the course of several review periods. *See* comment 51 of the final

results of the third review regarding this issue (53 FR at 24984).

Comment 83: The petitioners argue that Goldstar failed to employ the same SG&A reporting methodology in its cost of production and constructed value analyses. The petitioners note that in Goldstar's constructed value analysis, Goldstar calculated SG&A expenses using the weighted average SG&A expenses of comparable home market models. In its cost of production analysis, Goldstar used company-wide SG&A expenses allocated to CTV sales based on sales value. The petitioners argue that the Department should use the SG&A expense amounts from the constructed value calculation in the cost of production requires transaction-specific expenses to the extent possible. Constructed value is based on annual average costs. Therefore selling expenses must be inferred from similiar home market comparison models. There is therefore no inconsistency between the two methods, and the calculations should remain unchanged.

Department's Position: We agree with Goldstar. With respect to below COP allegations we used certified transaction-specific SG&A expenses for the COP calculations. In the instances where there were no comparable home market sales, we used constructed value to determine FMV. Therefore, for CV calculations, selling expenses must be inferred because there are no identical models available. In this case the best evidence of what those expenses might be was to look at selling expenses of similar models. Therefore there is no inconsistency between the two methods.

Comment 84: Goldstar argues that the Department should use the company's suggested home market model comparisons for two U.S. models since the home market models chosen by the Department do not have contemporaneous sales for one month. The petitioners argue that where comparisons are not possible the Department should use constructed value.

Department's Position: The home market comparison models that we selected are more similar to the U.S. models than those proposed by Goldstar. For the one month where there are no contemporaneous sales of the models we selected, we accepted Goldstar's proposed model selections as reasonable alternatives.

Comment 85: Goldstar asks that the Department perform its circumstance-of-sale adjustments in accordance with the methodology mandated by the CIT in *Timken*, that is, in ESP situations the Department should add direct selling expenses to FMV instead of deducting them from USP.

Department's Position: We disagree with *Goldstar*. We disagree with the court in *Timken* and have appealed the decision. Until the *Timken* decision is decided on appeal, we intend to follow our standard methodology as prescribed by the Tariff Act, which states that ESP should be reduced by "expenses generally incurred" in selling merchandise to the United States (section 772(e)(2)).

Comment 86: Goldstar argues that the Department should make a level of trade adjustment with respect to home market sales to dealers in accordance with *American Permac* v. *United States*, No. 88-01-00050, Slip Op. 88-164, CIT, Dec. 1, 1988. The petitioners claim that *American Permac* nothwithstanding, Goldstar still has not provided support for its calculations and therefore the Department should deny Goldstar's claim. Zenith insists that Goldstar's claim is wholly speculative and cites the Department's treatment of Goldstar's level of trade claims in prior reviews of this order.

Department's Position: We have determined in this and in previous reviews that home market sales to distributors, franchise stores (dealers), department stores, and buying groups all occur at the same level of trade. This level is directly comparable to the level at which sales are made in the U.S. market. (*See* 53 FR 24984, comment 49.) Furthermore, even if such a difference were to exist, Goldstar has not provided adequate documentation to support its claim. (*See, e.g.* comment 49 of the final results of the second review (52 FR 41376)).

Comment 87: Goldstar argues that the Department should compare noncommercial set sales in the United States with noncommercial set sales in the home market, or at the very least, a combination of commercial and noncommercial set sales, rather than with strictly commercial set sales. Zenith disagrees, arguing that section 773(a)(1)(A) forbids such a comparison.

Department's Position: We disagree with Goldstar. The statute (section 773(a)(1)(A)) provides that FMV shall be based upon sales "in the ordinary course of trade." We do not consider noncommercial sales to be in the ordinary course of trade. We therefore did not distinguish between commercial and noncommercial set sales in the United States.

Comment 88: Goldstar requests that if the Department does use home market noncommercial set sales as comparisons, the Department should make an adjustment for commissions since these sales are commission sales.

Department's Position: Goldstar's comment is moot since we did not use home market noncommercial sales as comparison sales.

Final Results of the Review

Based on our analysis, we have changed the rates determined in our preliminary results (which includes shipments of CPTs and PCBs retroactively reviewed) as follows:

Manufacturer/ exporter	Margin (per-cent)	Period
Daewoo Corp	0.04	4/1/86-3/31/87
Goldstar Co	.23	4/1/86-3/31/87
Quantronics Manufacturing Korea, Ltd	zero	4/1/86-3/31/87
Samsung Co	.45	4/1/86-3/31/87
Cosmos Electronics Co., Ltd	2.24	4/1/87-3/31/88

The Department shall determine, and the Customs Service shall 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 by section 751(a)(1) of the Tariff Act, as cash deposit of estimated antidumping duties based on the most recent of the above margins for each firm shall be required. Since the margins for Daewoo, Goldstar, Quantronics, and Samsung are *de minimis*, the Department shall not require a cash deposit of estimated antidumping duties on entries from these firms. For Cosmos, the cash deposit rate will be 2.24 percent.

For any entries of this merchanside from a new exporter, whose first shipment occurred on or after April 1, 1988, and who is unrelated to any reviewed firm, a cash deposit of 2.24 percent shall be required. These cash deposit requirements are effective for all shipments of CTVs from the Republic of Korea, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and will remain in effect until the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 (1989).

Dated: June 15, 1990.

Eric L Garfinkel,

Assistant Secretary for Import Administration.

[A-351-503]

Certain Iron Construction Castings From Brazil; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 3, 1989, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain iron construction castings from Brazil. The review covers one manufacturer/exporter of this merchandise to the United States for the period October 21, 1985 through April 30, 1987, and a second firm for the period October 21, 1985 through April 30, 1988.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the final results from those presented in the preliminary results of review.

EFFECTIVE DATE: June 27, 1990.

FOR FURTHER INFORMATION CONTACT: Linnea Bucher or John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On August 3, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 31978) the preliminary results of its administrative review of the antidumping duty order on certain iron construction castings from Brazil (51 FR 81977, May 9, 1986). We have now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of certain iron construction castings, limited to manhole covers, rings and frames, catch basins, grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems, classifiable during the review periods as heavy castings under Tariff Schedules of the United States Annotated (TSUSA) item numbers 657.0950 and 657.0990, and to valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water or gas meters, classifiable during the review periods as light castings under TSUSA item number 657.0990. These articles must be of cast iron, not alloyed, and not malleable. Heavy castings are currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 7325.10.00.10 and 7325.10.00.500.

Light castings are classifiable under HTS item number 7325.10.00.50. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers Industria Viana Ltda. (Viana) for the period October 21, 1985 through April 30, 1987, and COSIGUA for the period October 21, 1985 through April 30, 1988.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received comments from the petitioner, the Municipal Castings Fair Trade Council and its individually-named members (the Council), and COSIGUA, a respondent.

Comment 1: The Council claims that the Department incorrectly added an amount for countervailing duties both to the U.S. price of merchandise not subject to countervailing duties (light castings) and to the U.S. price of castings sold during a period not subject to countervailing duties.

Department's Position: We agree. Because entries of heavy castings made on or after December 11, 1985 and on or before May 6, 1986 were not assessed countervailing duties as a result of the delay in the issuance of the ITC's final affirmative injury determination, we have eliminated the adjustments for countervailing duties on sales of heavy castings between December 12, 1985 and May 5, 1986. We have also eliminated the adjustments for countervailing duties on sales of all light castings in view of the fact that the order in the countervailing duty case covers only heavy castings.

Comment 2: The Council claims that the Department converted third-country and home market prices and charges into U.S. dollars at exchange rates in effect on the date of the third-country or home market sales. The Department should make all currency conversions at the exchange rate in effect on the date of the U.S. sales.

Department's Position: We agree and have made all currency conversions using exchange rates in effect on the dates of the U.S. sales, in accordance with sections 353.48, 353.49, and 353.60 of the Commerce Regulations.

Comment 3: The Council argues that the Department should offset commissions paid on third-country (Canadian) or home market sales with indirect selling expenses incurred on U.S. sales in those instances where no commission was paid on the U.S. sale.

Department's Position: We agree and have adjusted foreign market value (FMV) for the commission, when incurred. Since COSIGUA provided no information on its U.S. selling expenses, as requested in the questionnaire, we used the amount of the Canadian commission as best information available (BIA) for these expenses and made the appropriate circumstance-of-sale adjustment to FMV.

Viana paid commissions on its sales to only one of its U.S. customers, all of whom were unrelated to Viana. For these sales we deducted a commission from the comparable home market sale and added the amount of the U.S. commission to the FMV, in accordance with section 353.56(a) of the Commerce Regulations. There were no indirect expenses for the remaining U.S. sales and we adjusted FMV for Viana's home market commissions.

Comment 4: The Council contends that the Department should make a circumstance-of-sale adjustment for the credit expenses incurred by COSIGUA on its U.S. sales. The adjustment should be based on the period between the date of shipment from Brazil to the date of payment by the U.S. customer. The Department should use the home market prime rate as the interest rate.

Department's Position: We agree in part. On U.S. sales we calculated a credit expense from the date of shipment from Brazil to the date of payment by the unrelated U.S. customer. We used the Brazilian short-term interest rates submitted by Viana for the first review period, and short-term interest rates from the public version of the response in another Brazilian antidumping case as the best information available for the May 1, 1987, through April 30, 1988 period.

On Canadian sales, due to the payment terms, COSIGUA did not incur any credit expenses after the date of importation. Therefore, for these sales we calculated credit expenses from the date of shipment to the date of importation, using Brazilian short-term interest rates supplied by Viana as the best information available. We then made a circumstance-of-sale adjustment to FMV by deducting Canadian credit

expenses and adding U.S. credit expenses.

Comment 5: The Council claims that in its preliminary analysis of Viana, the Department was inconsistent because it made an adjustment for credit expenses on home market sales with at-sight payment terms but made no adjustment for credit expenses on U.S. sales with the same payment terms. Further, Viana's claims for home market credit expenses should be denied because they are at odds with the firm's descriptions of those expenses and do not comport with commercial reality. The claimed credit expenses for individual sales do not reflect the amounts that would have been incurred based on the number of days between shipment and payment.

Department's Position: We disagree in part. On sales to the United States, the payment terms were at-sight through letters of credit. All payments were made on a timely basis, so Viana incurred no credit expense. In the home market, however, although the agreed-upon terms were at-sight, payments were not always received on a timely basis. Therefore, whenever payment was made later than the agreed-upon time, Viana incurred a credit expense for which we made an adjustment to FMV.

Comment 6: The Council argues that the Department should make an adjustment to U.S. price (USP) for antidumping duties reimbursed by COSIGUA to one of its customers.

Department's Position: We disagree. While the Department adjusts USP for antidumping duties finally assessed and then reimbursed, in accordance with section 353.26 of the Commerce Regulations, we do not make adjustments for arrangements involving cash deposits of estimated antidumping duties. In this case, COSIGUA's agreement to assume responsibility for half the difference between the customer's estimated antidumping duty cash deposit rate and the higher "all other" cash deposit rate did not cover any antidumping duties to be finally assessed on entries during the period of review.

Comment 7: The Council contends that, as is its practice, the Department should have based COSIGUA's FMVs on monthly weighted-average prices rather than on individual sales.

Department's Position: We agree and have used monthly weighted-average prices in the four instances in which there was more than one-third country sale in a given month.

Comment 8: The Council argues that the Department should not have used sales between Viana and Aldebara in calculating FMV because the companies are related and the sales were not made at arm's length.

Department's Position: We agree and have not included such sales in our analysis. As a result of such exclusion, there were no contemporaneous home market sales of such or similar merchandise for many U.S. sales. Since Viana declined to furnish requested cost information, as FMV for these U.S. sales we used BIA, which was the "all other" rate from the original fair value investigation.

Comment 9: The Council contends that for COSIGUA the Department should reduce the price to Philipp Brothers (the U.S. importer) by the amounts of various movement expenses between the port of export and the port of delivery in the United States to the ultimate purchaser to the extent they were incurred by COSIGUA. COSIGUA contends that the Department should use the resale price to the unrelated U.S. customer and deduct movement expenses and other direct expenses.

Department's Position: We agree with COSIGUA and have corrected our calculations accordingly.

Comment 10: The Council states that the Department should correct its calculations for two apparent input errors in Viana's home market data sets.

Department's Position: We agree and have corrected our calculations accordingly.

Comment 11: The Council contends that in the 1987–1988 period for COSIGUA the Department added incorrect U.S. commission amounts to FMV in two instances and apparently neglected to add U.S. commissions to several Canadian comparison sales. For sales in the 1985–1987 period, the Department should have made a circumstance-of-sale adjustment for commissions paid on U.S. sales.

Department's Position: We agree and have made the appropriate adjustments.

Comment 12: The Council claims that for COSIGUA the Department should have compared a U.S. sale made on May 16, 1986 with a third-country sale on July 29, 1986, instead of using a third-country sale on January 15, 1986, because the January 15, 1986 sale is not contemporaneous with the U.S. sale.

Department's Position: Rather than the January 15, 1986 sale, we used a February 26, 1986 sale for comparison purposes. (There was only one sale in that month. *See* Comment 7.) Since the February sale is within the 90-day period before the U.S. sale, it is contemporaneous with the U.S. sale, in accordance with our longstanding practice of choosing a home market sale not more than 90 days before or 60 days after the U.S. sale.

Comment 13: The Council contends that the Department's treatment of the ICM and FIN taxes is inconsistent with the treatment of these taxes in other antidumping cases. The Department should follow its established practice and deduct actual ICM and FIN taxes from the home market prices.

Department's Position: We disagree. The amount of these taxes forgiven by reason of the export of this merchandise to the United States must be added to USP in accordance with section 772(d) of the Tariff Act. We calculated the adjustment by multiplying the f.o.b. U.S. price by the tax rates and adding the result to USP. To avoid artificially inflating or deflating margins, we made circumstance-of-sale adjustments to equal the difference in the taxes per unit, where appropriate. (*See Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part,* 54 FR 35517, August 28, 1989).

Comment 14: The Council argues that the Department should reduce Viana's claimed credit expenses to reflect the delay in remittance of the ICM and FIN taxes to the Brazilian government. This delay is equivalent to interest income earned on the deferred payment of taxes.

Department's Position: We disagree. We have addressed this issue in other administrative reviews. *See, e.g.,* our position on comment 5 in *Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review* (54 FR 13917, April 6, 1989).

Comment 15: The Council claims that the Department's model-match methodology is unreasonable in an analysis involving an economy experiencing hyper-inflation. The Department compared "such" merchandise sold in the home market with merchandise sold to the United States in the same month; when no matches were found it went back 30, then 60, then 90 days. If no matches were found in the past, it went forward 30, then 60 days. If still no matches were found, the Department then looked for home market sales of similar merchandise in the same fashion.

Instead, the Department should first compare sales of such merchandise in the same month, then similar merchandise in the same month, then such merchandise back 30 days, then similar merchandise back 30 days, then such merchandise forward 30 days, then

similar merchandise forward 30 days. If no sales of similar merchandise are found, the Department should repeat the same procedure using 60 days, then 90 days.

Department's Position: Normally, we make comparisons using a home market sale of such merchandise in the same month as the U.S. sale. If we do not find a match in that month, we continue to look for sales of such merchandise up to 90 days before the U.S. sale, then up to 60 days after the U.S. sale. If we still find no match, we repeat the process using similar merchandise.

In this case, we followed this practice. However, we recognize that home market sales that are not contemporaneous with U.S. sales may distort dumping margins in a hyper-inflationary economy, such as Brazil's during the review period. *See Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order; Tubular Steel Disc Wheels from Brazil (53 FR 34566, September 7, 1988).*

Therefore, when the home market sale date used for comparison purposes occurred in a month other than the month of the U.S. sale and the official inflation rate exceeded 5 percent per month over a sustained period we adjusted the comparison home market price for inflation. We used published Obrigacoes do Tesouro Nacional (OTN) indices to adjust the home market prices to equivalent prices on the date of the U.S. sale. We then converted the home market sale price to dollars using the exchange rate in effect on the date of the U.S. sale.

Comment 16: The Council claims that the Department should consider certain sales from Viana to Aldebara to be part of Viana's U.S. sales because Aldebara later sold the merchandise to the United States.

Department's Position: We disagree. Southern Star, a U.S. importer of Brazilian castings, requested an administrative review of castings imports from Viana. Since no review of Aldebara was requested, we limited our review to Viana's direct U.S. sales, and we did not review Aldebara's U.S. sales.

Final Results of Review

Based on our analysis of the comments received, we have changed our results from those presented in our preliminary results and have determined the margins to be:

Manufacturer/ Exporter	Time period	Margin (percent)
Industria Viana, Ltd..	10/21/85–04/30/87	25.50
COSIGUA (USIPA)...	10/21/85–04/30/87	
	05/01/87–04/30/88	15.30
		8.46

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisment instructions directly to the Customs Service. Individual differences between U.S. price and foreign market value may vary from the percentage stated above.

As provided for by section 751(a)(1) of the Tariff Act, the Department shall require a cash deposit of estimated antidumping duties based on the most recent of the above margins for these firms.

For any shipments from manufacturers and exporters not covered by this review the cash deposit will continue to be at the last rate applicable for those firms (51 FR 81977, May 9, 1986). For any entries of this merchandise from a new exporter not covered in this administrative review, whose first shipment occurred after April 30, 1988 and who is unrelated to the reviewed firms, a cash deposit of 25.50 percent shall be required. These cash deposit requirements are effective for all shipments of Brazilian iron construction castings entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and will remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 (1989).

Dated: June 19, 1990.

Frank J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-14820 Filed 6-26-90; 8:45 am]

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[A-588-028]

Preliminary Results of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, From Japan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from interested parties, the Department of Commerce is conducting an administrative review of the antidumping finding on roller chain, other than bicycle, from Japan. The review covers seven manufacturer/exporters of the subject merchandise to the United States for the period April 1, 1988 through March 31, 1989. We preliminarily determine the dumping margins to range from 0.0 to 8.40 percent. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 27, 1990.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1769 or (202) 377-5288, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 24, 1989, the Department published a notice of initiation of administrative review of the antidumping finding on roller chain, other than bicycle, from Japan (54 FR 22465). Pursuant to section 751 of the Tariff Act of 1930, as amended ("the Act"), we have preliminarily reviewed the following companies for the period April 1, 1988 through March 31, 1989: Kaga Kogyo K.K. (Kaga Industries Co., Ltd.) (Kaga), Sugiyama Chain Co., Ltd. (Sugiyama), I&OC of Japan Co., Ltd. (I&OC), Hitachi Metals Techno, Ltd. (Hitachi), Takasago RK Excel Co., Ltd. (Takasago), Pulton Chain Co., Inc. (Pulton), and Izumi Chain Manufacturing Co., Ltd. (Izumi).

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS sub-heading.

Imports covered by this review are shipments of roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle" as used in this review includes chain, with or without attachments, whether or not plated or

coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain.

The review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. The review further covers chain model numbers 25 and 35. Roller chain, other than bicycle, is currently classifiable under HTS sub-headings 7315.11.00 through 7315.12.00. These HTS sub-headings are provided for convenience and customs purposes. The written description remains dispositive.

This review covers the seven manufacturers/exporters listed above, of roller chain, other than bicycle, from Japan to the United States for the period April 1, 1988 through March 31, 1989.

A. Kaga Industries Co., Ltd.

United States Price

In calculating United States price the Department used purchase price as defined in section 772(b) of the Act. Purchase price was based on the packed, Yokohama port price to an unrelated trading company in Japan because Kaga knew at the time of the sale to the Japanese trading company that the ultimate destination of the merchandise was the United States. We made adjustments for foreign inland freight.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on packed, delivered prices to unrelated wholesalers and original equipment manufacturers in Japan. We made deductions, where appropriate, for inland freight.

We made circumstance of sale adjustments for differences in credit terms and technical service expenses, in accordance with 19 CFR 353.56. We deducted home market packing costs and added U.S. packing costs.

For sales that could not be matched contemporaneously, we calculated a weighted-average foreign market value for each product based on all reported sales during the review period.

B. Sugiyama Chain Co., Ltd. and I&OC of Japan Co., Ltd.

United States Price

Sugiyama made sales during the review period to I&OC, an unrelated trading company in Japan, and through a related party in the United States that sold the merchandise to unrelated purchasers after importation into the United States.

As provided for in section 772(b) of the Act, we used purchase price between Sugiyama and I&OC to represent the United States price for all sales to I&OC because Sugiyama knew at the time of the sale to I&OC that the ultimate destination of the merchandise was the United States. Therefore, all I&OC sales of Sugiyama-produced subject merchandise are subject to Sugiyama's antidumping duty margin.

We calculated the purchase price based on packed, F.O.B., Tokyo port prices, and made a deduction for foreign inland freight.

As provided for in section 772(c) of the Act, we used the exporter's sales price (ESP) to represent the United States price for all sales made through Sugiyama's related U.S. subsidiary because these sales were made to unrelated purchasers after importation into the United States.

For ESP transactions, we made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. duty, U.S. freight and U.S. brokerage. In accordance with section 772(e)(2) of the Act, we made additional deductions, where appropriate, for advertising, credit expenses and indirect selling expenses. Indirect selling expenses include U.S. and Japanese incurred selling expenses and inventory carrying costs. In accordance with section 772(e)(1) of the Act, we also deducted commissions.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on packed, delivered prices to unrelated customers in the home market. We determined that sales to a related party were not at prices reflective of arm's length transactions, as claimed by Sugiyama. Therefore, we did not use these sales in making our comparisons.

For comparisons involving purchase price sales, we made deductions for inland freight. We made circumstance of sale adjustments for differences in credit expense and advertising pursuant to 19 CFR 353.56. We deducted home market packing costs from the foreign market value and added U.S. packing costs.

For comparisons involving ESP sales, we made deductions, where appropriate, for inland freight. We made circumstance of sale adjustments, where appropriate, for differences in credit terms and for advertising expenses pursuant to 19 CFR 353.56. We deducted home market indirect selling expenses, including inventory carrying costs, product liability expenses, salesmen's travel expenses, and other indirect selling expenses. This deduction for indirect selling expenses was capped by the amount of indirect selling expenses and commissions incurred in the U.S. market, in accordance with 19 CFR 353.56. We deducted home market packing costs from the foreign market value and added U.S. packing costs.

For sales that could not be matched contemporaneously, we calculated a weighted-average foreign market value for each product based on all reported sales during the review period.

C. Hitachi Metals Techno, Ltd.

United States Price

As provided for in section 772(b) of the Act, we used purchase price to represent the United States price for certain sales by Hitachi because the merchandise was sold to unrelated parties prior to importation into the United States. For all other sales, where the merchandise was sold to unrelated purchasers after importation into the United States, we used ESP, as provided for in section 772(c) of the Act.

We calculated the purchase price and ESP based on packed, C.I.F., duty paid, delivered prices to unrelated purchasers in the United States. For purchase price and ESP transactions, we made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. freight and U.S. brokerage. We recalculated the above expenses, using data submitted by respondent as the best information available because respondent did not provide sufficient information to support its allocation methodology.

For ESP transactions, in accordance with section 772(e)(2) of the Act, we made additional deductions, where appropriate, for credit expenses and indirect selling expenses, including bad debt expenses, mailing expenses, indirect advertising expenses, and other indirect selling expenses. We recalculated indirect selling expenses,

including bad debt expenses and other indirect selling expenses as best information available because respondent did not provide sufficient information to support its allocation methodology. In accordance with section 772(e)(1) of the Act, we also deducted commissions.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on packed prices to related and unrelated customers in Japan. We used sales to related parties only when it was shown that the sales were at prices reflective of arm's length transactions.

We made circumstance of sale adjustments for differences in credit terms in accordance with 19 CFR 353.56. We used the interest rate claimed on home market credit for calculating credit on purchase price sales. We have disallowed a circumstance of sale adjustment for interest expense because it appears the respondent has double-counted this category.

For comparisons involving purchase price sales, we added U.S. commissions to the foreign market value and subtracted home market indirect selling expenses up to the amount of the U.S. commission.

For comparisons involving ESP sales, we deducted home market indirect selling expenses, including indirect advertising and salesmen's salaries and expenses. This deduction for indirect selling expenses was capped by the amount of indirect selling expenses and commissions incurred in the U.S. market, in accordance with 19 CFR 353.56.

In instances where there were no sales of identical or similar merchandise in the home market with which to compare merchandise sold in the United States, we used the best information available because respondent did not provide us with the information necessary to calculate a margin. For some sales there were no matches provided, either identical or similar, and for other sales, respondent provided similar matches but failed to provide difference in merchandise adjustment information.

As the best information available, the Department used the weighted-average margin calculated on the identical comparison sales.

D. Takasago RK Excel Co., Ltd.

Because of the magnitude of the omissions and deficiencies in Takasago's responses and because Takasago failed to respond to the Department's deficiency letter, the Department used the best information available in accordance with section 776(c) of the Act.

As the best information available, the Department used the highest rate calculated for a respondent in this administrative review.

E. Pulton Chain Co., Ltd.

The Department used the best information available in accordance with section 776(c) of the Act. The deficiencies in Pulton's responses, as outlined below, effectively preclude our ability to calculate a margin using Pulton's data.

Pulton failed to: (1) Submit computer diskettes that the Department's data processing equipment was able to utilize. The diskettes were incorrectly formatted so the Department was unable to access the individual data files; and (2) provide complete data necessary to properly match U.S. sales with home market merchandise in time for use in the preliminary determination.

As the best information available, the Department used the highest rate calculated for a respondent in this administrative review.

F. Izumi Chain Manufacturing Co., Ltd.

Because of the magnitude of the omissions and deficiencies in Izumi's responses, the Department used the best information available in accordance with section 776(c) of the Act. The deficiencies, as outlined below, effectively preclude our ability to calculate a margin using Izumi's data.

Izumi failed to: (1) Provide the Department with convincing evidence to support its claim that its home market sales to a related party were at prices reflective of arm's length transactions; (2) properly match its U.S. sales with the most similar home market merchandise in accordance with the Department's requirements; (3) provide information that would allow the Department to select the most similar home market product; and (4) provide the information necessary to calculate the differences in merchandise associated with any new matches.

As the best information available, the Department used the highest rate calculated for a respondent in this administrative review.

Currency Conversion

In accordance with 19 CFR 353.60 of the Department's regulations, we used the official exchange rate in effect on the appropriate dates for determining foreign market value. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the margins to be:

Manufacturer/exporter	Margin percent
Kaga Kogyo, K.K	0.00
Sugiyama Chain Co., Ltd	.62
Hitachi Metals Techno, Ltd	8.40
I&OC Of Japan Co., Ltd	.62
Takasago RK Excel Co., Ltd	8.40
Pulton Chain Co., Inc	8.40
Izumi Chain Co., Ltd	8.40

The Department will issue appraisement instructions concerning each manufacturer/exporter directly to the Customs Service upon completion of this administrative review.

Furthermore, the following deposit requirements will be effective upon publication of our final results of this administrative review for all shipments of roller chain, other than bicycle from Japan entered, or withdrawn from warehouse, for consumption on or after that publication date, as provided by section 751(a)(1) of this Act; (1) The cash deposit rate for any shipments of this merchandise manufacturered or exported by the remaining known manufacturers/exporters not covered in this review will continue to be at the latest rate applicable for each of those firms (2) the cash deposit rate for the companies included in this notice will be that established in the final results of this administrative review; and (3) the cash deposit rate for any future entries of this merchandise from a new producer and/or exporter, not covered in this or prior administrative reviews, whose first shipments occurred after March 31, 1989 and who is unrelated to any reviewed firm, or previously reviewed firm, will be 8.40 percent.

Public Comment

In accordance with 19 CFR 353.38, case briefs or any other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than July 23, 1990, and rebuttal briefs no later than July 30, 1990. In accordance with 19 CFR 353.38(b), and we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Any hearing, if requested, will be held August 6, 1990, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Interested parties who wish to participate in the hearing must submit a written request to

the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), an interested party may make an oral presentation only on arguments included in its briefs.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: June 18, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-14817 Filed 6-26-90; 8:45 am]

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[A-588-028]

Preliminary Results of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, From Japan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from interested parties, the Department of Commerce is conducting an administrative review of the antidumping finding on roller chain, other than bicycle, from Japan. The review covers six manufacturer/exporters of the subject merchandise to the United States for the period April 1, 1987 through March 31, 1988. We preliminarily determine the dumping margins to range from 1.36 to 17.04 percent. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 27, 1990.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1769 or (202) 377-5288, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 23, 1988, the Department published a notice of initiation of administrative review of the antidumping finding on roller chain, other than bicycle, from Japan (53 FR 18324). Pursuant to section 751 of the Tariff Act of 1930, as amended ("the Act"), we have preliminarily reviewed the following companies for the period April 1, 1987 through March 31, 1988: Sugiyama Chain Co., Ltd. (Sugiyama), I&OC of Japan Co., Ltd. (I&OC), Hitachi Metals Techno, Ltd. (Hitachi), Takasago RK Excel Co.; Ltd. (Takasago), Pulton Chain Co., Inc. (Pulton), and Izumi Chain Manufacturing Co., Ltd. (Izumi).

Scope of Review

The United States has developed a system of tariff classification based on the International harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS") as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS subheading.

Imports covered by this review are shipments of roller chain, other than bicycle, from Japan. There term "roller chain, other than bicycle" as used in this review includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately assembled roller links and pink links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain.

The review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. The review further covers chain model numbers 25 and 35. Roller chain, other than bicycle, is currently classifiable under HTS subheadings 7315.11.00 through 7315.12.00. These HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive.

This review covers the six manufacturer/exporters listed above, of roller chain, other than bicycle, from Japan to the United States for the period April 1, 1987 through March 31, 1988.

A Sugiyama Chain Co., Ltd. and I&OC of Japan Co., Ltd.

United States Price

Sugiyama made sales during the review period to I&OC, an unrelated trading company in Japan, and through a related party in the United States that sold the merchandise to unrelated purchasers after importation into the United States.

As provided for in section 772(b) of the Act, we used purchase price between Sugiyama and I&OC to represent the United States price for all sales by I&OC, because Sugiyama knew at the time of the sale to I&OC that the ultimate destination of the merchandise was the United States. Therefore, all I&OC sales of Sugiyama-produced subject merchandise are subject to Sugiyama's antidumping duty margin.

We calculated the purchase price based on packed, F.O.B., Tokyo port prices, and made a deduction for foreign inland freight.

As provided for in section 772(c) of the Act, we used the exporter's sales price (ESP) to represent the United States price for all sales made through Sugiyama's related U.S. subsidiary because these sales were made to unrelated purchasers after importation into the United States.

For ESP transactions, we made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. duty, U.S. freight and U.S. brokerage. In accordance with section 772(e)(2) of the Act, we made additional deductions, where appropriate, for advertising, credit expenses and indirect selling expenses. Indirect selling expenses include U.S. and Japanese incurred selling expenses and inventory carrying costs. In accordance with section 772(e)(1) of the Act, we also deducted commissions.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on packed, delivered prices to unrelated customers in the home market. We determined that sales to a related party were not at prices reflective of arm's length transactions, as claimed by Sugiyama. Therefore, we did not use these sales in making our comparisons.

For comparisons involving purchase price sales, we made deductions for inland freight. We made circumstance of sale adjustments for differences in credit expense and advertising pursuant to 19 CFR 353.56. We deducted home market,

packing costs from the foreign market value and added U.S. packing costs.

For comparisons involving ESP sales, we made deductions, where appropriate, for inland freight. We made circumstance of sale adjustments, where appropriate, for differences in credit terms and for advertising expenses pursuant to 19 CFR 353.56. We deducted home market indirect selling expenses, including inventory carrying costs, product liability expenses, salesmen's travel expenses, and other indirect selling expenses. This deduction for indirect selling expenses was capped by the amount of indirect selling expenses and commissions incurred in the U.S. market, in accordance with 19 CFR 353.56. We deducted home market packing costs from the foreign market value and added U.S. packing costs.

For sales that could not be matched contemporaneously, we calculated a weighted-average foreign market value for each product based on all reported sales during the review period.

B. Hitachi Metals Techno, Ltd.

United States Price

As provided for in section 772(b) of the Act, we used purchase price to represent the United States price for certain sales by Hitachi because the merchandise was sold to unrelated parties prior to importation into the United States. For all other sales, where the merchandise was sold to unrelated purchasers after importation into the United States, we used ESP, as provided for in section 772(c) of the Act.

We calculated the purchase price and ESP based on packed, C.I.F., duty paid, delivered prices to unrelated purchasers in the United States. For purchase price and ESP transactions, we made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. freight and U.S. brokerage. We recalculated the above expenses, using data submitted by respondent as the best information available because respondent did not provide sufficient information to support its allocation methodology.

For ESP transactions, in accordance with section 772(e)(2) of the Act, we made additional deductions, where appropriate, for credit expenses and indirect selling expenses, including bad debt expenses, mailing expenses, indirect advertising expenses, and other indirect selling expenses. We recalculated indirect selling expenses, including bad debt expenses and other indirect selling expenses as best information available because respondent did not provide sufficient information to support its allocation methodology. In accordance with section 772(e)(1) of the Act, we also deducted commissions.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on packed prices to related and unrelated customers in Japan. We used sales to related parties only when it was shown that the sales were at prices reflective of arm's length transactions.

We made circumstance of sales adjustments for differences in credit terms in accordance with 19 CFR 353.56. We used the interest rate claimed on home market credit for calculating credit on purchase price sales. We have disallowed a circumstance of sale adjustment for interest expense because it appears the respondent has double-counted this category.

For comparisons involving purchase price sales, we added U.S. commissions to the foreign market value and subtracted home market indirect selling expenses up to the amount of the U.S. commission.

For comparisons involving ESP sales, we deducted home market indirect selling expenses, including indirect advertising and salesmen's salaries and expenses. This deduction for indirect selling expenses was capped by the amount of indirect selling expenses and commissions incurred in the U.S. market, in accordance with 19 CFR 353.56.

For sales that could not be matched contemporaneously, we calculated a weighted-average foreign market value for each product based on all reported sales during the review period.

In instances where there were no sales of identical merchandise in the home market with which to compare merchandise sold in the United States, we used the best information available because respondent did not provide us with the information necessary to calculate a margin. For some sales there were no matches provided, either identical or similar, and for other sales, respondent provided similar matches but failed to provide difference in merchandise adjustment information.

As the best information available, the Department used the weighted-average margin calculated on the identical comparison sales.

C. Takasago RK Excel Co., Ltd.

Because of the magnitude of the omissions and deficiencies in Takasago's responses, the Department used the best information available in accordance with section 776(c) of the Act. The deficiencies, as outlined below, effectively preclude our ability to calculate a margin using Takasago's data.

Takasago failed to: (1) Submit the required sales data in computerized format; (2) provide sales data in a format that would enable the Department to make price to price comparisons; and (3) provide the cost data necessary to calculate difference in merchandise adjustments.

As the best information available, the Department used the highest rate calculated for a respondent in this administrative review.

D. Pulton Chain Co., Ltd.

The Department used the best information available in accordance with section 776(c) of the Act. The deficiencies in Pulton's responses, as outlined below, effectively preclude our ability to calculate a margin using Pulton's data.

Pulton failed to: (1) Submit computer diskettes that the Department's data processing equipment was able to utilize because the diskettes were incorrectly formatted so the Department was unable to access the individual data files; and (2) provide complete data necessary to properly match U.S. sales with home market merchandise in time for use in the preliminary determination.

As the best information available, the Department used the highest rate calculated for a respondent in this administrative review.

E. Izumi Chain Manufacturing Co., Ltd.

Because of the magnitude of the omissions and deficiencies in Izumi's responses, the Department used the best information available in accordance with section 776(c) of the Act. The deficiencies, as outlined below, effectively preclude our ability to calculate a margin using Izumi's data.

Izumi failed to: (1) Provide the Department with convincing evidence to support its claim that its home market sales to a related party were at prices reflective of arm's length transactions; (2) properly match its U.S. sales with the most similar home market merchandise in accordance with the Department's requirements; (3) provide information that would allow the Department to select the most similar home market product; and (4) provide the information necessary to calculate the differences in merchandise associated with any new matches.

As the best information available, the Department used the highest rate calculated for a respondent in this administrative review.

Currency Conversion

In accordance with 19 CFR 353.60 of the Department's regulations, we used the official exchange rates in effect on the appropriate dates for determining foreign market value. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the margins to be:

Manufacturer/Exporter	Margin percent
Sugiyama Chain Co., Ltd	1.36
Hitachi Metals Techno, Ltd	17.04
I&OC of Japan Co., Ltd	1.36
Takasago RK Excel Co., Ltd	17.04
Pulton Chain Co., Inc	17.04
Izumi Chain Co., Ltd	17.04

The Department will issue appraisement instructions concerning each manufacturer/exporter directly to the Customs Service upon completion of this administrative review.

Furthermore, the following deposit requirements will be effective upon publication of our final results of this administrative review for all shipments of roller chain, other than bicycle from Japan entered, or withdrawn from warehouse, for consumption on or after that publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for any shipments of this merchandise manufactured or exported by the remaining known manufacturers/exporters not covered in this review will continue to be at the latest rate applicable for each of those firms (2) the cash deposit rate for the companies included in this notice will be that established in the final results of this administrative review; and (3) the cash deposit rate for any future entries of this merchandise from a new producer and/or exporter, not covered in this or prior administrative reviews, whose first shipments occurred after March 31, 1988 and who is unrelated to any reviewed firm, or previously reviewed firm, will be 17.04 percent.

Public Comment

In accordance with 19 CFR 353.38, case briefs or any other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than July 23, 1990, and rebuttal briefs no later than July 30, 1990. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Any hearing, if requested, will be held August 6, 1990, at 1:30 p.m. at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), an interested party may make an oral presentation only on arguments included in its briefs.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: June 18, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-14818 Filed 6-26-90; 8:45 am]

BILLING CODE 3510-DS-M

National Technical Information Service

Correction of Notice of Prospective Grant to Exclusive Patent License

This is a correction to a notice appearing in the Tuesday, May 29, 1990, **Federal Register**, Vol. 55, No. 103, page 21768, related to the contemplated grant of an exclusive license in the United States and certain foreign countries to practice the invention embodied in U.S. Patent Application Serial No. 7-305,286, "Breath Sampler" to SKC, Inc., having a place of business at Eighty Four, PA. That notice, which provides an abstract describing the invention, omitted mention of a continuation-in-part, S.N. 7-463,574, also entitled "Breath Sampler," filed January 11, 1990. The patent rights in both these inventions have been assigned to the United States of America.

A copy of either of the instant patent applications may be purchased from the NTIS Sales Desk by telephoning 1-800-336-4700 or by writing to the Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the comtemplated license must be submitted to Neil L. Mark, Center for the Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing Specialist, Center for the Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 90-14890 Filed 6-26-90; 8:45 am]

BILLING CODE 3510-04-M

National Oceanic and Atmospheric Administration

Endangered Species; Issuance of Modification No. 2 to Permit No. 691; Southwest Fisheries Science Center

On April 20, 1990, notice was published in the **Federal Register** (55 FR 14993) that an application for modification #2 had been filed by the Southwest Fisheries Science Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, CA 92038, to expand the number of turtles taken, in addition to olive ridley (*Lepidochelys olivacea*), to include all other turtle species encountered in the Eastern Tropical Pacific. The additional types and number of species to be taken are: (1) 5 hawksbill (*Eretmochelys imbricata*), (2) 5 leatherback (*Dermochelys coriacea*), (3) 15 green/black (*Chelonia mydas/Chelonia mydas agassizi*), and (4) 15 loggerhead (*Caretta caretta*). The modified limit of the olive ridley is 80 individuals.

The additional species may be captured, measured, tagged, photographed, stomach and blood sampled and released. Stomach and blood samples removed from these additional species, and salvaged individuals may be taken and imported. The applicant proposes to modify the take by using satellite telemetry to track sea turtle movements. A maximum of five satellite tags will be used for the satellite tracking component of his project. The satellite tracking is an enhancement to the current tagging program.

Notice is hereby given that on June 13, 1990, as authorized by the provisions of the Endangered Species Act of 1973, the National Marine Fisheries Service issued a modification for the above taking, subject to certain conditions set forth therein.

Issuance of this modification, as required by the Endangered Species Act of 1973, is based on the finding that such modification: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the modification; and (3) will be consistent with the

purposes and policies set forth in section 2 of the Act. This modification was also issued in accordance with and is subject to parts 220–222 of title 50 CFR, of the National Marine Fisheries Service regulations governing endangered species permits.

The original Permit and modifications #1 & #2 are available for review in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, room 7324, Silver Spring, Maryland 20910; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

Dated: June 13, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90–14821 Filed 6–26–90; 8:45 am]

BILLING CODE 3510–22–M

COMMISSION ON AGRICULTURAL WORKERS

Hearing

AGENCY: Commission on Agricultural Workers.

ACTION: Announcement of hearing.

SUMMARY: The Commission on Agricultural Workers will hold its first hearing on July 20–21 in Hillsboro, Oregon. The Commission, established by the Immigration Reform and Control Act (IRCA) of 1986 under section 304, is charged with evaluating the Special Agricultural Worker (SAW) provisions of IRCA and with reviewing several specific aspects relating to the demand for and supply of agricultural labor. The Commission is interested in hearing testimony on these issues with specific reference to Washington, Idaho and Oregon. The hearing will be open to the public.

DATES: 2 p.m. July 20, 1990 and 9 a.m. July 21, 1990.

ADDRESSES: Washington Public Services Building, 155 North First Avenue, Hillsboro, OR 97124.

FOR FURTHER INFORMATION CONTACT: Richard Peterson, Telephone: (202) 673–5348.

Dated: June 21, 1990.

Richard R. Peterson,

Acting Executive Director.

[FR Doc. 90–14918 Filed 6–26–90; 8:45 am]

BILLING CODE 6820–62–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 Indonesia

June 21, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: June 21, 1990.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, 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, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535–9480. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority

Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 369–S and 645/646 are being increased for swing and carryforward. The limits for Categories 313 and 334/335 are being reduced to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the *CORRELATION:* Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 27664, published on June 30, 1989; and 54 FR 36368, published on September 1, 1989.

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.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 21, 1990.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Commissioner:

This directive amends, but does not cancel, the directives issued to you on June 23, 1989 and August 28, 1989, by the Chairman, Committee for the Implementation of Textile Agreements. These directives concern imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1989 and extends through June 30, 1990.

Effective on June 21, 1990, you are directed to adjust the limits established in the directives of June 23, 1989 and August 28, 1989 for cotton and man-made fiber textile products in the following categories, as provided under the provisions of the current bilateral textile agreement between the Governments of the United States and Indonesia:

Category	Adjusted 12-mo limit [1]
313	7,699,852 square meters.
334/335	104,142 dozen.
369–S [2]	553,222 kilograms.
645/646	499,310 dozen.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1989.
[2] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception ot the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90–14875 Filed 6–26–90; 8:45 am]

BILLING CODE 3510–DR–M

Extension of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the United Arab Emirates

June 21, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: June 28, 1990.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, 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, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715. For information on

categories on which consultations have been requested, call (202) 377–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Government of the United States has decided to continue the restraints on Categories 336/636 and 342/642 for an additional twelve-month period, beginning June 28, 1990 and extending through June 27, 1991.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of the United Arab Emirates, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 41862, published on October 12, 1989.

Dated: June 22, 1990.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

June 21, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on June 28, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in the United Arab Emirates and exported during the period beginning on June 28, 1990 and extending through June 27, 1991, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
336/636	48,501 dozen.
342/642	96,768 dozen.

Imports charged to these category limits for the period June 28, 1989 through June 27, 1990 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall with the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90–14876 Filed 6–26–90; 8:45 am]

BILLING CODE 3510–DR–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership of the Defense Contract Audit Agency (DCAA) Performance Review Boards

AGENCY: Defense Contract Audit Agency, Department of Defense.

ACTION: Notice of Membership of the Defense Contract Audit Agency Performance Review Boards.

SUMMARY: This notice announces the appointment of the members of the Performance Review Boards (PRBs) of the Defense Contract Audit Agency (DCAA). The publication of PRB membership is required by 5 U.S.C. 4314(c)(4). The Performance Review Boards provide fair and impartial review of Senior Executive Service (SES) performance appraisals and make recommendations to the Director, DCAA, regarding final performance ratings and performance awards for DCAA SES members.

EFFECTIVE DATE: July 27, 1990.

FOR FURTHER INFORMATION CONTACT: Dale R. Collins, Director, Personnel and Security Division, Defense Contract Audit Agency, Department of Defense, Cameron Station, Alexandria, Virginia, 202–274–7325.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are the names and titles of the executives who have been appointed to serve as members of the DCAA Performance Review Boards. They will serve one-year terms, effective upon publication of this notice.

Headquarters Performance Review Board:

Mr. John van Santen, Assistant Director, Resources Defense Contract Audit Agency Chairperson.

Mr. William Sharkey, Assistant Director, Policy and Plans, Defense Contract Audit Agency member.

Mr. Roy Heidemann, Assistant Director, Operations Defense Contract Audit Agency member.

Regional Performance Review Board:

Mr. Joel Valenzuela, Regional Director, Central Defense Contract Audit Agency Chairperson.

Mr. William H. Kraft, Jr., Regional Director, Mid-Atlantic Defense Contract Audit Agency member.

Mr. Charles T. Cherry, Deputy Regional Director, Eastern Defense Contract Audit Agency member.

Dated: June 21, 1990.

Linda M. Bynum,

Alternate OSD, Federal Register Liaison Officer, Department of Defense

[FR Doc. 90–14834 Filed 6–26–90; 8:45 am]

BILLING CODE 3810–01–M

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve a reduction of a currently approved information collection pertaining to Integrity of Unit Prices.

ADDRESSES:

Send comments to Ms. Eyvete Flynn, FAR Desk Officer, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy Olson, Office of Federal Acquisition Policy, (202) 501–3781 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697–7268.

SUPPLEMENTARY INFORMATION:

a. Purpose

FAR 15.812–1(c) and the clause at FAR 52.215–26, Integrity of Unit Prices, require offerors and contractors under

Federal contracts to identify in their proposals those supplies which they will not manufacture or to which they will not
are required by section 501 of Pub L 98-577 (for the civilian agencies) and section 927 of Pub L 99-500 (for DoD and NASA). The proposed rule will eliminate reporting requirements on contracts with civilian agencies for commercial items.

b. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, 7,822; responses per respondent, 95; total annual responses, 743,090; hours per response, .084; and total response burden hours, 62,470. This represents a 2% change from the current burden approved by OMB under control number 9000-0080.

Obtaining Copies of Proposals

Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 501-4755. Plese cite OMB Control No. 9000-0080, Integrity of Unit Prices.

Dated: June 19, 1990.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 90-14872 Filed 6-26-90; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF DEFENSE

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection system concerning Facilities Capital Cost of Money Computation.

ADDRESSES: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy Olson, Office of Federal Acquisition Policy, (202) 501-3781 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697-7268.

SUPPLEMENTARY INFORMATION:

a. Purpose

FAR part 30 incorporates the Cost Accounting Standards (CAS) and the pertinent rules and regulations of the CAS Board with the administrative policies and procedures presently contained there. Public Law 97-379 (50 U.S.C. app. 2168) requires certain contractors and subcontractors to comply with Cost Accounting Standards and to disclose in writing and follow consistently those cost accounting practices. In addition, those contractors are required to compute Capital Cost of Money under Cost Accounting Standard 30.414. The information is used by contracting officers to ensure that the contractor does follow consistently the accounting practices that the contractor discloses and the contractor computes the Capital Cost of Money using the latest indirect rates published by the Secretary of the Treasury.

b. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, 2,540; respones per respondent, 2.97; total annual responses, 7,540; hours per response, 2.2; and total response burden hours, 16,600.

Obtaining Copies of Proposals

Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0093, Facilities Capital Cost of Money Computation.

Dated: July 20, 1990.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 90-14873 Filed 6-26-90; 8:45 am]

BILLING CODE 6820-34-M

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of an information collection requirement concerning Computer Generation of Forms by the Public.

ADDRESSES: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mrs. Victoria Moss, Office of Federal Acquisition Policy, (202) 501-0168 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697-7268.

SUPPLEMENTARY INFORMATION:

a. Purpose

This rule allows computer generation of forms prescribed by the FAR and by FAR supplements. The rule will ultimately affect several existing OMB clearances and will require reestimation of the burden associated with those clearances. It is anticipated that this rule will reduce the burden on the public associated with acquisition procedures. This rule affects all firms which do business or seek to do business with the government. Use of computer generated forms is optional. No penalties or incentives are associated with use of the forms.

b. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, *1*; responses per respondent, *1*; total annual responses, *1*; hours per response, *1*; and total response burden hours, *1*.

Obtaining Copies of Proposals

Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), room 4041, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0104, Computer Generation of Forms by the Public.

Dated: June 20, 1990.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 90-14879 Filed 6-26-90; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.031A, CFDA No. 84.031G]

Notice Inviting Applications for Designation as an Eligible Institution for Fiscal Year 1991 for the Strengthening Institutions Program and the Endowment Challenge Grant Program

Purpose: Institutions of higher education must meet specific statutory and regulatory requirements to be designated eligible to receive funds under the Strengthening Institutions Program and the Endowment Challenge Grant Program.

Deadline for Transmittal of Applications: August 27, 1990.

Applications Available: July 13, 1990.

Eligibility Information: Under section 312 of the Higher Education Act of 1965, as amended (HEA), an institution of higher education qualifies as an eligible institution under the Strengthening Institutions and Endowment Challenge Grant Programs if, among other requirements, it has a high enrollment of needy students, and its Educational and General (E&G) expenditures are low per full-time equivalent (FTE) undergraduate student, in comparison with the average E&G expenditures per FTE student of institutions that offer similar instruction. The complete eligibility requirements are found in 34 CFR 607.2 through 607.4 of the Strengthening Institutions Program regulations.

Enrollment of Needy Students: Under 34 CFR 607.3(a), an institution is considered to have a high enrollment of needy students if—

(1) At least 50 percent of its degree students received financial assistance under one or more of the following programs: Pell Grant, Supplemental Educational Opportunity Grant, College Work Study, or Perkins Loan Program; or (2) the percentage of its undergraduate degree students who were enrolled on at least a half-time basis and received Pell Grants exceeded the median percentage of undergraduate degree students who were enrolled on at least a half-time basis and received Pell Grants at comparable institutions that offer similar instruction. To qualify under the second criterion, an applicant's Pell grant percentage must be *more than* the median for its category provided on the table in this notice.

E&G Expenditures Per FTE Students: An applicant should compare its average E&G expenditure/FTE student to the average E&G expenditure/FTE student for its category of institution contained in the table in this notice. If the applicant's average E&G expenditure for 1988–89 is *less than* the average for its category, the applicant meets this eligibility requirement.

The applicant's E&G expenditures are the total amount expended by the institution during the base year for instruction, research, public service, academic support, student services, institutional support, operation and maintenance, scholarships and fellowships, and mandatory transfers.

The following table identifies the relevant median Pell Grant percentages and the average E&G expenditures per FTE for the 1988–89 base year.

	Median Pell grant percentage	Average E&G per FTE student
2-year Public Institutions	25.11	5,090
2-year Non-Profit Private Institutions	31.62	6,472
4-year Public Institutions	26.20	9,120
4-year Non-Profit Private Institutions	26.76	11,478

Waiver Information: Applicants unable to meet the high needy student enrollment requirement and/or the low E&G expenditure requirement may apply to the Secretary for waiver of these requirements under various options described in 34 CFR 607.3(b) and 34 CFR 607.4(c) and (d) respectively.

For the purpose of 34 CFR 607.3(b)(2), under which an applicant must demonstrate that at least 30 percent of the students it served in base year 1988–89 were from low-income families, "low-income" is defined as an amount which does not exceed 150 percent of the amount equal to the poverty level as established by the U.S. Bureau of the Census. The following table sets forth the low-income levels for various sizes of families.

For the purposes of this waiver provision, low-income families are identified according to the following:

Size of Family [1] and Gross Annual Family Income Must be Less Than [2]

1	$8,655
2	11,595
3	14,535
4	17,475
5	20,415
6	23,355
7	26,295
8	29,235

Source: U.S. Department of Health and Human Services as published in the **Federal Register** of February 12, 1988, Vol. 53, page 4213.

[1] For all families with more than 8 members, add $2,850 for each additional member.

[2] Add 15 percent for Hawaii and 25 percent for Alaska to the figures in Family Income column.

In reference to the waiver option specified in section 607.3(b)(4) of the regulation, information about "metropolitan statistical areas" may be obtained by contacting: National Technical Information Services, Document Sales, 5285 Port Royal Road, Springfield, Virginia 22161, or call (703) 487–4650. Title *Metropolitan Statistical Areas*, 1989 #PB89–192546.

Applicable Regulations:

Regulations applicable to the eligibility process include: a) the Strengthening Institutions Programs, 34 CFR Part 607; b) the Endowment Challenge Grant Program Regulations, 34 CFR Part 628; and c) the Education Department General Administrative Regulations, 34 CFR parts 74, 75, 77 and 85.

For Applications or Information Contact: Strengthening Institutions Program Branch, Division of Institutional Development, U.S. Department of Education, 400 Maryland Avenue, SW., room 3042, ROB#3, Washington, DC 20202–5335, Telephone: (202) 708–8839.

Authority: 20 U.S.C. 1057 and 1065a.

Dated: June 21, 1990.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

[FR Doc. 90–14896 Filed 6–26–90; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Intent, Environmental Impact Statement, Plutonium Recovery Modification Project, Rocky Flats Plant, CO

AGENCY: Department of Energy.

ACTION: Extension of public scoping period.

SUMMARY: The Department of Energy (DOE) has extended the time period during which it will receive public comments on the scope of the Environmental Impact Statement (EIS) for the proposed Plutonium Recovery Modification Project (PRMP) at the Rocky Flats Plant (RFP) to July 13, 1990.

DATES: Written comments or suggestions may be sent to Ms. Beth Brainard at the address indicated below. Comments should be postmarked by July 13, 1990, to assure consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES AND FURTHER INFORMATION: Persons requesting additional information regarding the PRMP or wishing a copy of the Department's

Notice of Intent (NOI) to prepare the PRMP EIS should contact.

Ms. Beth Brainard, Office of Public Affairs, Attn: PRMP, U.S. Department of Energy, Rocky Flats Plant, P.O. Box 928, Golden, Colorado 80402-9028, 1-800-446-7640.

For general information on the DOE National Environmental Policy Act (NEPA) process, please contact:

Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight, U.S. Department of Energy (EH-25), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4600.

SUPPLEMENTARY INFORMATION: On May 30, 1990, the DOE published a Notice of Intent in the **Federal Register** (55 FR 21919) regarding its intent to prepare an EIS for the proposed construction and operation of the PRMP at the Rocky Flats Plant near Golden, Colorado. The NOI announced the time and locations of three public meetings to discuss and receive public comments regarding the scope of the PRMP EIS. These meetings were held in Denver, Boulder, and Westminster, Colorado, on June 12, 18, and 20, 1990, respectively. The NOI indicated that written comments regarding the PRMP EIS should be postmarked by June 29, 1990. To ensure that all interested parties have adequate time to prepare written comments, the DOE has extended the scoping period to July 13, 1990. Comments should be postmarked by this date to assure consideration. Comments postmarked after July 13, will be considered to the extent practicable.

Issued at Washington, DC, this 22 day of June 1990.

Peter N. Brush

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 90-14921 Filed 6-26-90; 8:45 am]

BILLING CODE 6450-0--01-M

DEPARTMENT OF ENERGY

Morgantown Energy Technology Center, Financial Assistance Solicitation Available Notice (Cooperative Agreement)

AGENCY: U.S. Department of Energy (DOE), Morgantown Energy Technology Center.

ACTION: Cancellation of notice of the availability of a financial assistance solicitation.

SUMMARY: The DOE, Morgantown Energy Technology Center hereby cancels the notice published in the May 9, 1990, issue of the **Federal Register** (55 FR 19296), to identify the availability of a Program Research and Development Announcement (PRDA) No. DE-RA21-90MC27211 for the solicitation of applications in support of research and development entitled "Process Development Unit-Scale Development of Coal Mild Gasification."

FOR FURTHER INFORMATION CONTACT:

D. Denise Riggi, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26505, Telephone: (304) 291-4241, PRDA No. DE-RA21-90MC27211.

Louie L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 90-14924 Filed 6-26-90; 8:45 am]

BILLING CODE 6450-01-M

San Francisco Operations Office, Financial Assistance Award (Grant)

AGENCY: U.S. Department of Energy (DOE); San Francisco Operations Office (SAN).

ACTION: Notice of intent to award a grant on the basis of noncompetitive financial assistance.

SUMMARY: The Dept. of Energy, San Francisco Operations office intends to enter into a four year, cost shared grant with the Houston Community College System (HCCS), to assist their Summer and Transfer Achievement Readiness Program (STAR). The purpose of this prototype program is to encourage underrepresented minority students to pursue energy-related careers (*e.g.*, math, science, engineering, and environmental science) by enhancing the educational pipeline for minorities from high schools, community colleges to four year institutions. Features of the program include student and faculty academic and hands-on research and job experience summer programs, enhanced transfer opportunities via interinstitutional matriculation agreements between high schools, community colleges and four year institutions, academic counseling and other student support mechanisms, e.g. parent involvement with students. The DOE desires to enhance the public benefits to be derived by providing financial assistance and knows of no other entity which is conducting or is planning to conduct this activity. The project is expected to have a four (4) year life including four (4) separately funded one (1) year budget periods. Congress has appropriated $188,500 in FY90 funds for the first year of this effort. Additional funding will be provided for each respective budget period. Total estimated cost for the project is $999,000 which includes a $366,000 awardee share and $633,000 government share. The period of performance is expected to start June 1990, and expire four years thereafter.

Grant No. DE-FG03-90SF18627

FOR FURTHER INFORMATION CONTACT:

Olga R. Perez, Contracting Officer, U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, CM Division, Oakland, CA 94612.

Issued in Oakland, CA, June 15, 1990.

Joann P. van Guillory,

Deputy Director, Contracts Management Division.

[FR Doc. 90-14922 Filed 6-26-90; 8:45 am]

BILLING CODE 6450-01-M

San Francisco Operations Office, Financial Assistance Award (Grant)

AGENCY: U.S. Department of Energy (DOE); San Francisco Operations Office.

ACTION: Notice of intent to award a grant on the basis of noncompetitive financial assistance.

SUMMARY: The Dept. of Energy intends to enter into a three year, cost shared grant with the National Hispanic University to provide a comprehensive bilingual science education program and to incorporate a school/home support system for students, teachers and parents of the target school. The NHU will train teachers and parents on the use of an academic support system for students, teachers, and parents utilizing bilingual science materials. The project is expected to have a three (3) year life including three (3) separately funded one (1) year budget periods. Congress has appropriated $78K in FY90 funds for the first year of this effort. DOE support for this work will enhance the public benefits to be derived and DOE knows of no other entity which is conducting or is planning to conduct this activity. Additional funding will be provided for each respective budget period. Total estimated cost for the project is $317K which includes a $40K awardee share and $277K government share. The period of performance is expected to start June 1990, and expire three years thereafter.

Grant Number: DE-FG03-90SF10150

FOR FURTHER INFORMATION CONTACT:

Olga Perez, Contracting Officer, U.S.

Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612.

Issued in Oakland, CA June 15, 1990.

Joann P. van Guillory,

Deputy Director, Contracts Management Division.

[FR Doc. 90-14923 Filed 6-26-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER89-571-000, et al.]

Southwestern Electric Power Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Southwestern Electric Power Co.

[Docket No. ER89-571-000]

June 20, 1990.

Take notice that on May 31, 1990, Southwestern Electric Power Company (SWEPCO) tendered for filing amended transmission cost of service formula rate sheets to replace the transmission rate sheets currently on file as part of the Agreement for the Purchase and Sale of Electric Power and Energy between SWEPCO and the City of Hope, Arkansas.

Comment date: July 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Co.

[Docket No. ER89-612-002]

June 21, 1990.

Take notice that on June 14, 1990, New England Power Company (NEP) tendered for filing an amendment to NEP's Rate Schedule FERC No. 329 designated as Supplement No. 6. NEP states that this amendment is filed pursuant to the Commission order issued in this proceeding on April 20, 1990, which approved an uncontested settlement filed by NEP on December 28, 1989.

Comment date: July 6, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Illinois Power Co.

[Docket No. ER90-456-000]

June 21, 1990.

Take notice that on Illinois Power Company (the Company) on June 15, 1990, tendered for filing proposed changes in the following rate schedules:

Rate Schedule FERC No. 113, applicable to the Soyland Power Cooperative, Inc.

The proposed changes would decrease revenues from jurisdictional sales and service by approximately $3,488,000 based on the twelve month period ending December 31, 1982.

The Power Coordination Agreement between the parties provided that the Parties would renegotiate the terms and payments for Soyland's right to the output from a portion of IP's fossil-fueled generation capacity for the period January 1, 1993 through December 31, 2004. The Parties recently concluded negotiations and have filed the FERC approval Amendment No. 3 to the Power Coordination Agreement effective April 1, 1990.

Copies of this filing were served upon Soyland Power Cooperatives, Inc. and the Illinois Commerce Commission, Springfield, Illinois.

Comment date: July 6, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. New England Power Co.

[Docket No. ER-89-612-001]

June 21, 1990.

Take notice that on June 4, 1990, New England Power Company tendered for filing its Refund Report in the above referenced docket.

Comment date: July 5, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Catalyst Old River Hydroelectric Limited Partnership

[Docket Nos. EL90-34-000 and EC90-14-000]

June 21, 1990.

Take notice that on June 15, 1990, Catalyst Old River Hydroelectric Limited Partnership tendered for filing an application with the Federal Energy Regulatory Commission (Commission) pursuant to rules 204 and 207 of the Commission's Rules of Practice and Procedure, seeking and order (i) disclaiming jurisdiction, under section 201 of the Federal Power Act, 16 U.S.C. 824(b) over the Owner Trustee and Owner Participants in the proposed sale and leaseback; (ii) approving, under section 203 of the Federal Power Act, 16 U.S.C. 824b, the proposed transfers of jurisdictional facilities; (iii) waiving the Commission's filing requirements to the extent necessary to entertain this application; (iv) confirming that the proposed leveraged lease will have no effect on the filed rate schedules and (v) declaring that no approval is necessary under section 204 of the Federal Power Act, 16 U.S.C. 824c, or in the alternative, granting that approval.

Comment date: July 13, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-14846 Filed 6-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-153-000, et al.]

Northwest Pipeline Corporation, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Northwest Pipeline Corp.

[Docket No. CP90-1532-000]

June 20, 1990.

Take notice that on June 12, 1990, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP90-1532-000, a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act, for permission and approval to abandon a meter station and related service under its blanket certificate issued in Docket No. CP82-433, at the Uravan School in Montrose County, Colorado, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest states that it is requesting to abandon the meter station because the Uravan school no longer exists and the meter station has not been used for over five years.

Comment date: August 6, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP90-1559-000]

Tennessee Gas Pipeline Co.

[Docket No. CP90-1560-000]

Tennessee Gas Pipeline Co.

[Docket No. CP90-1561-000]

June 19, 1990.

Take notice that Northern Natural Gas Company, Division of Enron Corp., 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, and Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77252, (Applicants), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP86-435-000 and Docket No. CP87-115-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on the file with the Commission and open to public inspection. [1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Applicants state that each of the proposed services would be provided under an executed transportation agreement, and that Applicants would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: August 3, 1990, in accordance with Standard Paragraph G at the end of this notice.

APPENDIX

Docket No. (date filed)	Shipper name (type)	Peak day; average day; annual Dth	Receipt [2] points	Delivery points	Contract date; rate schedule; service type	Related docket, start up date
CP90-1559-000, (6-15-90).	Centran Corporation (Marketer)	50,000; 37,500; 18,250,000 [3]	Various	Various	4-11-90; IT-1; Interruptible.	ST90-2931-000, 4-11-90.
CP90-1560-000, (16-15-90).	Superior Natural Gas Corporation [5] (Marketer).	50,000; 50,000; 18,250,000	LA	LA, TN,[4] MS, KY, TX, IN, OH, AR, PA, WV, NY.	4-24-90; IT; Interruptible.	ST90-3275-000, 5-10-90.
CP90-1561-000, (6-15-90).	Honda of America Manufacturing, Inc. (End-User).	2,000; 2,000; 730,000	OLA, LA	WV [6]	5-1-90; FT-A; Firm	ST90-3241-000, 5-1-90.

[2] Offshore Louisiana is shown as OLA.
[3] Northern's quantities are shown in MMBtu.
[4] Tennessee shows these as ultimate points of delivery.
[5] Superior is shipping for itself and as agent for Walter Oil & Gas Corporation.
[6] Tennessee states that the ultimate point of delivery is in Ohio.

3. Granite State Gas Transmission, Inc.

[Docket No. CP90-1558-000]

June 20, 1990.

Take notice that on June 15, 1990, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, filed in Docket No. CP90-1558-000, a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act, to add a new delivery point under its blanket certificate issued in Docket No. CP82-515-000, for deliveries of natural gas to its affiliated distribution customer, Northern Utilities, Inc. (Northern), all as more fully set forth in the request on file with the Commission and open to public inspection.

Granite proposes to establish a new off-system delivery point for deliveries to Northern at Salem, New Hampshire at an interconnection with the facilities of Tennessee Gas Pipeline Company (Tennessee) to serve Northern's new franchise areas of Salem and Pelham, New Hampshire. The meter station and related facilities will be constructed by Granite State and Tennessee at an estimated cost of $647,200. Granite State indicated that it will reimburse Tennessee for these costs.

Granite State further state that the total volume which it is authorized to deliver to Northern will not exceed the volumes previously authorized and that deliveries made through the new delivery point will be made without detriment or disadvantage to Granite State's other customer requirements.

Comment date: August 6, 1990, in accordance with Standard Paragraph G at the end of this notice.

4. Colorado Interstate Gas Co.

[Docket No. CP90-1543-000]

June 20, 1990.

Take notice that on June 14, 1990, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP90-1543-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) to abandon by sale to the City of Colorado Springs, Colorado (City) approximately 3 miles of 20-inch sales lateral pipeline located in El Paso County, Colorado, under CIG's blanket authorization issued in Docket No. CP83-21-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CIG states that pursuant to a Purchase and Sale Agreement dated March 30, 1990, CIG has agreed to sell and the City has agreed to purchase the subject pipeline facilities. CIG states that the subject facilities were constructed and operated pursuant to the certificate authorization issued in Docket No. CP69-33. CIG notes that the proposed

[1] These prior notice requests are not consolidated.

abandonment involves only the sale of facilities and that no service obligation to the City is either reduced or terminated as a result of the proposed abandonment.

CIG states that under the March 30, 1990, agreement, it will sell the facilities to the City for the City's use in delivering gas purchased from CIG for resale in El Paso County, Colorado. According to CIG, the facilities are located in Sections 4, 5, and 6, Township 15 South, Range 65 West, and Section 1, Township 15 South, Range 66 West, El Paso County, Colorado.

Comment date: August 6, 1990, in accordance with Standard Paragraph G at the end of this notice.

5. Washington Gas Light Co.

[Docket No. CP90-1497-000]

June 20, 1990.

Take notice that on May 30, 1990, Washington Gas Light Company (Washington), 1100 H Street NW., Washington, DC 20080, filed in Docket No. CP90-1497-000 a petition for waiver of the filing requirements of §§ 260.1, 260.2, and 260.7, Annual Report for Major Natural Gas Companies (Form No. 2), Annual Report for Non-Major Natural Gas Companies (Form No. 2-A) and Interstate Pipelines Annual Report of Gas Supply (Form No. 15), respectively, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Washington states that it is a natural gas distributor providing retail and transportation services to customers in the District of Columbia and neighboring portions of Virginia and Maryland and that such service is regulated by the State Corporation Commission of Virginia and the Public Service Commissions of Maryland and the District of Columbia.

Washington further states that it transports the natural gas it receives from its suppliers across the boundaries of two states and the District of Columbia. Washington states that it has been granted a section 7(f) service area determination by the Commission and that the Commission, in granting Washington a blanket certificate pursuant to § 284.224 of the Commission's Regulations, found Washington to be, for all practical purposes, a local distribution company for purposes of Section 311 of the Natural Gas Policy Act.

Washington asserts that for these reasons it is a local distribution company and requests waiver of the filing requirements for Form 2, Form 2-A and Form 15.

Comment date: July 11, 1990, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

6. High Island Offshore System

[Docket Nos. CP90-1552-000,[2] CP90-1553-000, CP90-1554-000, CP90-1555-000, and CP90-1556-000]

June 20, 1990.

Take notice that High Island Offshore System (Applicant) filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicant and is included in the attached appendix.

Applicant also states that it would provide the service for each shipper under an executed transportation agreement, and that Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: August 6, 1990, in accordance with Standard Paragraph G at the end of this notice.[2]

Docket No. (date filed)	Applicant	Shipper name	Peak day [1], avg, annual	Points of		Start up date rate schedule	Related [3] dockets
				Receipt	Delivery		
CP90-1552-000 (6-15-90).	High Island Offshore System, 500 Renaissance Center, Detroit, Michigan 48243.	Hadson Gas Systems, Inc.	200,000, 200,000, 73,000,000	Off. TX, Off. LA	Off. LA, Off. TX	4-1-90, IT	RM88-14-001 and RM88-15-000, ST90-2705-000.
CP90-1553-000 (6-15-90).	High Island Offshore System, 500 Renaissance Center, Detroit, Michigan 48243.	Coastal Gas Marketing Company.	1,225,000, 1,225,000, 447,125,000	Off. TX, Off. LA	Off. LA, Off. TX	4-1-90, IT	RM88-14-001 and RM88-15-000, ST90-2730-000.
CP90-1554-000 (6-15-90).	High Island Offshore System, 500 Renaissance Center, Detroit, Michigan 48243.	Sun Operating Limited Partnership.	13,000, 13,000, 4,745,000	Off. TX	Off. LA	4-10-90, FT	RM88-14-001 and RM88-15-000, ST90-2734-000.
CP90-1555-000 (6-15-90).	High Island Offshore System, 500 Renaissance Center, Detroit, Michigan 48243.	Excel Gas Marketing, Inc.	870,000, 870,000, 317,550,000	Off. TX, Off. LA	Off. LA, Off. TX	4-10-90, IT	RM88-14-001 and RM88-15-000, ST90-2708-000.
CP90-1556-000 (6-15-90).	High Island Offshore System, 500 Renaissance Center, Detroit, Michigan 48243.	Superior Natural Gas Corporation.	80,000, 80,000, 29,200,000	Off. TX, Off. LA	Off. LA, Off. TX	4-10-90, FT	RM88-14-001 and RM88-15-000, ST90-2703-000.

[1] Quantities are shown in Mcf unless otherwise indicated.
[3] The RM docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

[2] These prior notice requests are not consolidated.

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 Capital Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate parties 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 section 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 on its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-14847 Filed 6-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR90-108-001]

Columbia Gas Transmission Corp.; Compliance Filing

June 20, 1990.

On June 15, 1990, Columbia Gas Transmission Corporation (Columbia) submitted a filing in response to the Commission's May 31, 1990 suspension order issued in the captioned proceedings.

Columbia states that the filing complies with Ordering Paragraph D(4) of the suspension order which requires Columbia to file, within fifteen days from the issuance of the suspension order, the necessary schedules and workpapers that support the base period costs and adjustments associated with the Commonwealth Gas Pipeline Corporation merger costs in accordance with § 154.63 of the Commission's Regulations. Columbia requests additional time in which to comply with the provisions of Ordering Paragraphs D(6) and D(7) until October 1, 1990, or fifteen days after the Commission's order on rehearing of the suspension order, whichever is earlier. Columbia also requests that the paper copy of the filing be considered as the official filing and that it be granted a waiver of the subscription requirement under § 385.2005 of the Commission's Rules of Practice and Procedure for the accuracy of the magnetic tape.

Columbia also states that copies of the filing were served upon the parties to the proceeding, Columbia's wholesale customers and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989). All such protests should be filed on or before June 27, 1990. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

FR Doc. 90-14848 Filed 6-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-107-002]

Columbia Gulf Transmission Co.; Compliance Filing

June 20, 1990.

Take notice that on June 25, 1990, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing copies of workpapers which show the allocation factors and how Columbia Gulf allocates its total system costs to each zone. Also, Columbia Gulf submitted the detail of each zone's cost of service, in compliance with Ordering Paragraph (D)(5) of the Commission's suspension order issued May 31, 1990.

Columbia Gulf also requested additional time to comply with the provisions of Ordering Paragraph (D)(7) until October 1, 1990, or fifteen days after the Commission's order on rehearing of the suspension order, whichever is earlier. Since the effectiveness of the rates and tariff sheets have been suspended until November 1, 1990, no useful purpose is gained by making the required filings any earlier than October 1, 1990, which is thirty days prior to the November 1, 1990 effective date of the proposed rates in this proceeding.

Columbia Gulf states that copies of this filing were served upon all Columbia Gulf's jurisdictional customers, interested state commissions and to each of the parties set forth on the Official Service list in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989). All such protests should be filed on or before June 27, 1990. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

FR Doc. 90-14849 Filed 6-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-164-002, TA90-1-23-000, TF90-1-23-000, TM90-1-23-000, TQ90-1-23-000, TF90-2-23-000, TF90-3-23-000, TQ90-2-23-000, TF90-4-23-000, and TF90-5-23-000]

Eastern Shore Natural Gas Co.; Proposed Changes In FERC Gas Tariff

June 20, 1990.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on June 15, 1990 certain revised tariff sheets included in appendix A attached to the filing. Such sheets are proposed to be effective November 1, 1989; February 1, 1990; March 1, 1990; May 1, 1990; and June 1, 1990, respectively.

ESNG states that such tariff sheets are being filed to revise ESNG's sales, storage, and transportation rates to reflect the cost allocation and rate design methodology approved for ESNG by the Commission in its Order Approving Settlement issued on May 3, 1990 in Docket No. RP89-1164-000, *et al.* Such order approved ESNG's Stipulation and Agreement (S & A) as filed on December 22, 1989 and amended on January 22, 1990 pursuant to rule 602 of the Commission's Rules of Practice and Procedures. In this regard, the instant filing is submitted in accordance with article VII of the S & A, whereby within thirty (30) days after the date upon which the order approving the settlement becomes final ESNG shall file revised tariff sheets refecting the settlement rates to be effective as of November 1, 1990, as adjusted to reflect any rate change made by ESNG subsequent to that date.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989). All such protests should be filed on or before June 27, 1990. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-14850 Filed 6-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-3-29-000]

Transcontinental Gas Pipe Line Corp.; In FERC Gas Tariff

June 21, 1990.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on June 18, 1990, certain revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff included in appendix A attached to the filing.

Transco states that the purpose of this filing is to track rate changes attributable to (1) storage services purchased from Consolidated Natural Gas (CNG) under its Rate Schedule GSS and transportation services purchased from National Fuel under its Rate Schedule X-42 the costs of which are included in the rates and charges payable under Transco's Rate Schedule LSS and (2) storage services purchased from Texas Eastern Transmission Corporation (TETCO) under its Rate Schedule X-28 the costs of which are included in the rates and charges payable under Transco's Rate Schedule S-2. This tracking filing is being made pursuant to section 4 of Transco's Rate Schedule LSS and section 26 of the General Terms and Conditions of Volume No. 1 of its FERC Gas Tariff.

Included in appendices B through K attached to the filing are explanations of each of the tracking rate changes, the proposed effective date of such changes and details regarding the computation of the revised LSS and S-2 rates.

Also included therein for filing are revised tariff sheets which incorporate the Rate Schedule LSS and S-2 rate changes proposed therein to subsequent intervening rate filings which have been accepted or are currently pending Commission acceptance on the effective dates reflected thereon.

Transco states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 28, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference room.

Lois D. Cashell,

Secretary,

[FR Doc. 90-14851 Filed 6-26-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No 90-18-NG]

Semco Energy Service, Inc.; Order Granting Authorization To Import Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued an order granting Semco Energy Services, Inc. (Semco), authorization to import natural gas from Canada. The order issued in FE Docket No. 90-18-NG authorizes Semco to import up to 800 Bcf of domestic gas over a two-year term beginning on July 1, 1990 and ending June 30, 1992.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays.

Issued in Washington, DC., June 20, 1989.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-14925 Filed 6-26-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-10-NG]

TXG Gas Marketing Co.; Order Granting Authorization To Import and Export Natural Gas From and To Canada and Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting a blanket authorization to import natural gas from and export natural gas to Canada and Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order granting TXG Gas Marketing Company (TXG) blanket authorization to import natural gas from and export natural gas to Canada and Mexico, up to an aggregate volume of 73 Bcf over a term of two years, commencing on the date of first import or export.

A copy of the order is available for inspection and copying at the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 21, 1989.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-14926 Filed 6-26-90; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $5,377,578 (plus accrued interest) obtained as a result of a consent order which the DOE entered into with Thomas P. Reidy, Inc. (Case No. KEF-0137). The fund will be available to customers who purchased refined petroleum products from Reidy during the period June 13, 1973 through January 27, 1981.

DATES AND ADDRESSES: Applications for Refund of a portion of the consent order fund must be filed in duplicate no later than May 31, 1991 and should be addressed to: Reidy Special Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585. All applications should conspicuously display a reference to Case No. KEF-0137.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585 (202) 586-2860.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy, 10 CFR 205-282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order relates to a consent order entered into by the DOE and Thomas P. Reidy, Inc. The consent order settled possible violations of the Federal petroleum price and allocation regulations with respect to the firm's operations during the period January 1, 1973 through January 27, 1981. On February 28, 1990, the Office of Hearings and Appeals issued a Proposed Decision and Order which tentatively established refund procedures and solicited comments from interested parties concerning the proper disposition of the consent order fund. 55 FR 8185 (March 7, 1990).

As the Decision and Order indicates, Applications for Refund may now be filed. Applications will be accepted provided that they are filed no later than May 31, 1991. Applications will be accepted from customers who purchased refined petroleum products during the period June 13, 1973 through January 27, 1981. The specific information required in an Application for Refund is set forth in the Decision and Order.

Dated: June 20, 1990

George B. Breznay,

Director, Office of Hearings and Appeals

DECISION AND ORDER OF THE DEPARTMENT OF ENERGY, IMPLEMENTATION OF SPECIAL REFUND PROCEDURES

Name of Case: Thomas P. Reidy, Inc.
Date of Filing: June 27, 1989.
Case Number: KEF-0137.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR part 205, subpart V; *see also Office of Enforcement,* 9 DOE ¶ 82,553 (1981); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981). On June 27, 1989, the ERA filed a Petition for the Implementation of Special Refund Procedures to distribute funds received from Thomas P. Reidy, Inc. (Reidy) under the terms of a consent order between the DOE and Reidy. In its Petition, the ERA requests that the OHA establish procedures to make refunds in order to remedy the effects of the alleged regulatory violations that were settled in the Reidy consent order.

I. Background

Reidy was a bulk reseller and independent wholesaler marketer of refined petroleum products during the period of federal price controls. The firm was therefore subject to the Mandatory Petroleum Price and Allocation Regulations set forth in 10 CFR parts 210, 211, and 212, and predecessor regulations in 6 CFR part 150. During the price control period, the ERA conducted an extensive audit of Reidy's operations and alleged in several administrative proceedings, that Reidy had violated certain applicable DOE price and allocation regulations in its sale of refined petroleum products. On April 1, 1988, the OHA issued a Remedial Order which found that Reidy had violated the DOE price regulations pertaining to reseller-retailers. *Thomas P. Reidy, Inc.,* 17 DOE ¶ 83,009 (1988) (*Reidy*). Subsequently, settlement discussions were held and on January 13, 1989, the ERA and Reidy entered into a consent order (No. 720H06015Z) that resolved all regulatory issues pertaining to Reidy's refined product operations during the period from January 1, 1973 through January 27, 1981 (the consent order period). This consent order was adopted as final on March 14, 1989. *See* FR 10575 (March 14, 1989).

Pursuant to the consent order, Reidy remitted $5,200,000 to the DOE for distribution through subpart V. The firm was also required to assign to the consent order fund a refund of $177,587 which had been approved for Reidy by this Office in another proceeding but was held in escrow pending resolution of the Reidy enforcement proceeding.[1] The consent order fund is being held in an interest-bearing escrow account maintained at the Department of Treasury pending a determination regarding its proper distribution.

On February 28, 1990, we issued a Proposed Decision and Order (PDO) setting forth a tentative plan for the distribution of the Reidy consent order fund. A copy of the PDO was published in the Federal Register on March 7, 1990 and comments were solicited. See 55 FR 8185 (March 7, 1990). No comments were received.

[1] Reidy was required by the terms of the consent order to assign the refund granted to it in *Gulf Oil Corp./Thomas P. Reidy, Inc.,* 15 DOE ¶ 85,154 (1986). *See Gulf Oil Corp./ Thomas P. Reidy, Inc.,* 18 DOE ¶ 86,056 (1989).

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

We have considered the ERA's petition that we implement a subpart V proceeding with respect to the Reidy consent order fund and have determined that such a proceeding is appropriate. In this Decision and Order, we will adopt final refund procedures and will set forth the items that must be included in a refund application.

III. Final Refund Procedures

Since we have received no adverse comments regarding the proposed refund procedures, we have determined that those procedures are the most equitable and efficacious means of distributing the Reidy consent order funds. However, as discussed below, we have decided to slightly modify these procedures by increasing the small claims presumption threshold and by making a concomitant change in the medium range presumption of injury. Along with these modifications, we are adopting the proposed refund procedures outlined in the PDO.

As we indicated in the PDO, the Reidy consent order resolved alleged regulatory violations involving Reidy's sale of various petroleum products. We will implement a two-stage refund refund process by which firms and individuals who purchased petroleum products from Reidy during the consent order period may submit Applications for Refunds in the initial stage. From our experience with subpart V proceedings, we expect that potential applicants will fall into three categories of Reidy purchasers: (i) End-users, i.e., ultimate consumers; (ii) regulated entities, such as public utilities, and cooperatives; and (iii) retailers, resellers and refiners that resold Reidy products (hereinafter collectively referred to as "resellers").

Each claimant will be required to submit a schedule of its monthly purchases of Reidy refined petroleum products during the consent order period. If a product was not purchased directly from Reidy, the claimant must provide a statement setting forth its reasons for maintaining that the product originated with Reidy.

However, we are excluding from refund consideration certain sales of refined petroleum products made by Reidy during the consent order period. In *Reidy*, the OHA found that Reidy had made voluntary refunds to Torco Oil Company (Torco) for overcharges in its January 1974 sale to Torco of No. 6 low sulphur residual fuel oil and in its December 1973 sale to Torco of No. 6 high sulphur residual fuel oil. *Reidy*, 17 DOE at 86,107. Reidy also made a voluntary refund to four subsidiaries of Tenneco, Inc. (Tenneco) for overcharges in Reidy's sale to them of No. 2 fuel oil in November 1973.[2] *Id.* Since restitution has already been made for these transactions, Torco and Tenneco will not be eligible for a refund from the consent order found for these purchases.

A reseller claimant, except one that chooses to utilize the injury presumptions adopted below, will be required to make a detailed showing that it was injured by the alleged overcharges. This showing will generally consist of two distinct elements. First, this type of claimant will be required to show that it maintained "banks" of unrecouped increased product costs (banked costs) in excess of the refund claimed.[3] These banks must be presented for each product on a monthly basis from November 1973 or the first month in which the firm purchased from Reidy, whichever is later, through the date on which the product was decontrolled.[4] Second, because a showing of banked costs alone is not sufficient to establish injury, the claimant must also provide evidence that market conditions precluded it from increasing its prices to pass through the additional costs associated with the alleged overcharges. *See Vickers Energy Corp./Hutchens Oil Co.*, 11 DOE ¶ 86,070 at 88,105 (1983). Such a showing could consist of a demonstration that the firm suffered a competitive disadvantage as a result of its purchases from Reidy. *See National Helium Corp./Atlantic Richfield Co.*, 11 DOE ¶ 85,257 (1984), *aff'd sub nom. Atlantic Richfield Co. v. DOE*, 618 F. Supp. 1199 (D. Del. 1985).

1. Presumptions for Refund Claims

The PDO outlined various presumptions which would allow claimants to participate in the refund process without incurring inordinate expense, and would insure that refund claims are evaluated in the most efficient manner possible. We have decided to adopt the presumptions we proposed with the exception of the small claim presumption threshold and the medium range presumption refund amount.

First, we will adopt the volumetric presumption detailed in the PDO. This presumption states that the alleged overcharges were dispersed equally in all of Reid's sales of petroleum products during the consent order period. In accordance with this presumption, refunds are to be made on a pro-rata or volumetric basis. Under this approach, a claimant's allocable share of the consent order fund is equal to the number of gallons of products purchased times the per gallon refund amount.[5] The PDO

[2] Those subsidiaries are: Walker Manufacturing Company, Packaging Corporation of America, J.I. Case Company, and Tenneco Chemicals Company.

[3] Claimants who previously relied upon their banked costs in order to obtain refunds in other special refund proceedings should subtract those refunds from the cumulative banked costs submitted in this proceeding. *See Husky Oil Co./Metro Oil Products, Inc.*, 16 DOE ¶ 85,090, at 88,179 (1987). Additionally, a claimant may not receive a refund for any month in which it has a negative cumulative bank (for that product) or for any preceding month. *See Standard Oil (Indiana)/Surburban Propane Gas Corp.*, 13 DOE ¶ 85,030 at 88,082 (1985). If a claimant no longer has records showing its banked costs, the OHA may use its discretion to allow approximations of those banks prepared by the applicant. *See e.g, Gulf Oil Corp./Sturdy Oil Co.*, 15 DOE ¶ 85,187 (1986).

[4] The calculation of cost banks was available to retailers and most resellers until July 15, 1979 and April 30, 1980, respectively. Therefore, in showing injury with respect to their purchases of motor gasoline, such claimants will not be required to submit cost bank data subsequent to those dates. However, for each month from those dates through January 1981, retailers and resellers will have to show that their gross margin was less than the applicable fixed margin specified in 10 C.F.R. 212.93.

[5] Because we realize that the impact on an individual claimant may have been greater than the volumetric amount, any purchaser may file a refund application based upon a claim that a specifically alleged overcharge amount should be used in considering its refund application. *See, e.g., Standard Oil Co. (Indiana)/Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984). Such an application will be granted only if an applicant makes a persuasive showing that: (i) it was "overcharged" by a specific amount, (ii) it sustained a disproportionate share of Reidy's alleged overcharges, and (iii) that it was injured by those overcharges. *See MCO Holdings, Inc., MGPC, Inc./Little America Refining Co.*, 19 DOE ¶ 85,560 (1989); *Marathon Petroleum Co./Red Diamond Oil Co.*, 19 DOE ¶ 85,543 (1989); *Getty Oil Co./Atchison, Topeka & Santa Fe Railroad Co.*, 18 DOE ¶ 85,107 (1988). To the extent that a claimant makes this showing, it will receive a refund above the volumetric refund level. In computing the appropriate refund amount, we will prorate the alleged overcharge amounts by the ratio of the Reidy settlement amount as compared to the aggregate overcharge amount alleged by the ERA. *Amtel, Inc./Whitco, Inc.*, 19 DOE ¶ 85,319 (1989) (*Amtel/Whitco*).

established the volumetric factor at $0.002706, and we will adopt this figure.[6] As in prior refund proceedings, we will establish a minimum refund amount of $15.00.[7]

a. End-users

We will also adopt the presumption that an end-user or ultimate consumer of Reidy products whose business is unrelated to the petroleum industry was injured by the alleged overcharges settled by the consent order. These applicants will only need to document their purchase volumes from Reidy during the consent order period in order to make the requisite showing that they were injured by the alleged overcharges.

b. Regulated Firms and Cooperatives

We have determined that, in order to receive a full volumetric refund, a claimant whose prices for goods and services are regulated by a governmental agency, *e.g.*, a public utility, or by the terms of the cooperative agreement, needs only to submit documentation of petroleum product purchases used by itself or, in the case of a cooperative, sold to its members. However, a regulated firm or cooperative whose allocable share is greater than $10,000 will also be required to certify that it will pass any refund received through to its customers or member-customers, provide us with a full explanation of how it plans to accomplish the restitution, and certify that it will notify the appropriate regulatory body or membership group of the receipt of the refund.[8]

c. Refiners, Resellers and Retailers Seeking Refunds of $10,000 or Less

In the PDO we proposed using a small claims presumption for resellers whose allocable share is $5,000 or less. This was consistent with the $5,000 small claims threshold used in many prior proceedings. Since the issuance of the PDO, we have implemented the Texaco special refund proceeding. *See Texaco Inc.*, 20 DOE ¶ 85,147 (1990) (*Texaco*). In *Texaco*, we found that because the volumetric refund amount was large ($0.0011 per gallon), many applicants who purchased relatively small volumes would be unable to receive full volumetric refunds under the small claims presumption. *Id.* at 88,302 n.5. Consequently, we raised the small claims threshold in that proceeding from $5,000 to $10,000. The same considerations that were present in *Texaco* apply to this proceeding given the large volumetric amount involved (approximately $0.0027 per gallon). Thus, we are raising the small claims threshold in this proceeding to $10,000. We will adopt a small claims presumption whereby a reseller whose allocable share is $10,000 or less, i.e., who did not purchase more than 3,695,492 gallons of eligible products from Reidy during the consent order period, will not be required to submit evidence of injury. Instead, these claimants must only document their relevant purchases from Reidy.

d. Medium-Range Refiner, Reseller, and Retailer Claimants

In the PDO we proposed that in lieu of making a detailed showing of injury a reseller claimant whose allocable share exceeds $5,000 may elect to receive as its refund the larger of $5,000 or 40 percent of its allocable share up to $50,000. Since we have modified the small claims presumption refund amount to $10,000, we will modify the medium-range presumption of injury to reflect the higher small claims presumption threshold. Consequently, under the medium-range presumption, in lieu of making a detailed showing of injury a reseller claimant whose allocable share exceeds $10,000 may elect to receive as its refund the larger of $10,000 or 40 percent of its allocable share up to $50,000.[9] An applicant who elects the medium range presumption will only be required to provide documentation of its purchase volumes of Reidy refined petroleum products during the consent order period in order to receive a refund.[10]

e. Spot Purchasers

We have adopted a rebuttable presumption that a reseller that made only irregular or sporadic, i.e., spot, purchases from Reidy did not suffer injury as a result of those purchases. As we have previously stated, spot purchasers generally had considerable discretion as to the timing and market in which they made their purchases, and therefore would not have made spot market purchases from a firm at increased prices unless they were able to pass through the full amount of the firm's selling price to their own customers. *See, e.g., Vickers*, 8 DOE at 85,396–97. Accordingly, a spot purchaser claimant must submit specific and detailed evidence to rebut the spot purchaser presumption and to establish the extent to which it was injured as a result of its spot purchases from Reidy.[11]

2. Allocation Claims

We will also adopt the procedures, outlined in the PDO, for resolving claims based upon Reidy's alleged failure to furnish petroluem products that it was obliged to supply unde the DOE allocation regulations at 10 CFR part 211. Any such applications will be evaluated with reference to the standards set forth in cases such as *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,220 (1982), and refund application cases such as *Mobil Oil Corp./Reynolds Industries, Inc.*, 17 DOE ¶ 85,608 (1988); *Marathon Petroleum Co./Research Fuels, Inc.*, 19 DOE ¶ 85,575 (1989), *Action for review pending*, No. CA3–89–2983G (N.D. Tex. filed Nov. 22, 1989) (*Marathon-PFI*). These standards generally require an allocation claimant to demonstrate the existence of a supplier/purchaser relationship with the consent order firm

[6] We derived this figure by dividing the fund ($5,377,578) by 1,987,605,140, the approximate number of gallons of refined products subject to price controls sold by Reidy less the 6,992,612 gallons for which Reidy made voluntary refunds during the consent order period. Although the Reidy consent order period begins January 1, 1973, refund applications may only be based used upon purchases of refined products between June 13, 1973 and the day preceding the relevant decontrol date for each product as summerized below:

Residual Fuel—June 1, 1976

No. 1 and No. 2 Heating Oil, Diesel Fuel and Kerosene—July 1, 1976

Butane and Natural Gasoline—January 1, 1980

Motor Gasoline and Propane—January 28, 1981

[7] In accordance with this requirement, applicants claiming volumetric refunds must have purchased at least 5,543 gallons of refined products from Reidy during the consent order period to be eligible for a refund.

[8] A cooperative's sales to non-members will be treated in the same manner as sales by other resellers. *See Total Petroleum/Farmers Petroleum Cooperative*, 19 DOE ¶ 85,215 (1989).

[9] That is, claimants who purchased between 3,695,492 gallons and 46,193,644 gallons of Reidy refined petroleum products during the consent order period (medium-range claimants) may elect to utilize this presumption. claimants who purchased more than 46,193,644 gallons may elect to limit their claim to $50,000.

[10] A claimant who attempts to make a detailed showing of injury in order to obtain 100 percent of its allocable share but, instead, provides evidence that leads us to conclude that it passed through all of the alleged overcharges or is eligible for a refund of less than the applicable presumption-level refund may not then be eligible for a presumption-based refund. Instead, such a claimant may receive a refund which reflects the level of injury established in its application. No refund will be approved if its submission indicates that it was not injured as a result of its purchases from Reidy. *See Exxon*, 17 DOE at 89,150 n.10.

[11] In prior proceedings, we have stated that refunds will be approved for spot purchasers who demonstrate that (i) They made spot purchases for the purpose of ensuring a supply for their base period customers rather than in anticipation of financial advantage as a result of those purchases, and (ii) they were forced by market conditions to resell the product at a loss that was not subsequently recouped through the draw down of banks. *See, e.g., Quaker State Oil Refining Corp./Certified Gasoline Co.*, 14 DOE ¶ 85,465 (1986); *Savage Gas Co./BGL Supply, Inc.*, 19 DOE ¶ 85,622 at 89,141 n.2 (1989).

and the likelihood that the consent order firm failed to furnish petroleum products that it was obliged to supply to the claimant under 10 CFR part 211. In addition, the claimant should provide evidence that it had contemporaneously notified the DOE or otherwise sought redress from the alleged allocation violations. Finally, the claimant must establish that it was injured and document the extent of the injury.

In our evaluation of whether allocation claims meet these standards, we will consider various factors. For example, we will seek to obtain as much information as possible about the agency's treatment of complaints made to it by the claimant. We will also look at any affirmative defenses that Reidy may have had to the alleged allocation violation. *See Marathon/RFI.* In assessing an allocation claimant's injury, we will evaluate the effect of the alleged allocation violation on its entire business operations with particular reference to the amount of product that it received from suppliers other than Reidy. In deterimining the amount of the allocation refund, we will utilize any information that may be available regarding the portion of the Reidy consent order amount that the agency attributed to allocation violations in general and to the specific allocation violation alleged by the claimants. Finally, since the Reidy consent order represents a negotiated compromise of the issues involved in the enforcement proceedings against Reidy and the consent order amount is less than Reidy's potential liability in those proceedings, we will pro rate those allocation refunds that would otherwise be dispropritionately large in relation to the consent order fund. *Cf. Amtel/Whitco.*

3. Distribution of Product Funds Remaining after First Stage

Any funds that remain after all first stage claims have been decided will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), Pub. L. 99-509, title III, reprinted in Fed. Energy Guidelines ¶ 11,702 et seq. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. These responsbilities have been delegated to the OHA, and any funds in the Reidy escrow account that the OHA determines will not be needed to effect direct restitution to injured Reidy customers will be distributed in accordance with the provisions of PODRA.

IV. Refund Application Requirements

We have adopted the procedures described above for the distribution of the Reidy consent order fund. Accordingly, we will now accept Applications for Refund from eligible customers who purchased refined petroleum products from Reidy during the consent order period. There is no official application form that must be used. Applications for Refund should be written or typed on business letterhead or personal stationery. All Applications for Refund should contain the following information:

(1) A conspicuous reference to "Reidy Refund Proceeding—Case No. KEF-0137" and the name and address of the applicant during the period for which the claim is filed, as well as the name of the person to whom the refund check is to made out and the address to which the check should be sent. The application should also contain the current name, mailing address and telephone number of the applicant, if it is different from the above.

(2) The name, title, and telephone number of a person who may be contacted for additional information concerning the application.

(3) The use(s) of the Reidy product(s) by the applicant, e.g., whether the applicant was a refiner, petroleum jobber, gas station, consumer, public utility, or cooperative.

(4) A monthly schedule of the applicant's purchases of each refined petroleum product that it purchased from Reidy from June 13, 1973 through the date of decontrol of that product (see footnote 6). The applicant should indicate the source of this volume information. Monthly schedules should be based upon actual, contemporaneous business records. If such records are not available, the applicant may submit estimates provided that those estimates are reasonable and the estimation methodology is explained in detail.

(5) If the applicant was an indirect purchaser, it should submit the name, address and telephone number of its immediate supplier and indicate why it believes that the covered product was originally sold by Reidy.

(6) If the applicant is a refiner, reseller, or retailer whose volumetric share exceeds $10,000, it must indicate whether it elects to receive as its refund the larger of $10,000 or 40 percent of its allocable share up to $50,000. If it does not elect to use the presumption, it must submit a detailed showing that it was injured by the alleged overcharges. *See supra* Part III.

(7) A statement whether the applicant or a related firm has filed, or authorized any individual to file on its behalf, any other refund application in the Reidy proceeding. If duplicate applications are filed for the same purschases, both may be denied. *See Texaco Inc.-Riggs Texaco Service,* 20 DOE ¶ 85,269 (1990).

(8) If the applicant is or was entirely or partly owned by Reidy, it should explain the nature of the affiliation. Affiliates or subsidiaries of Reidy are presumptively held not to be injured since their receipt of a refund would allow the consent order firm to benefit from this proceeding. *See e.g., Marathon Petroleum Co./EMRO Propane Co.,* 15 DOE ¶ 85,288 at 85,528 (1987). This presumption applies both to firms affiliated with Reidy during the consent order peirod but no longer affiliated with the firm and firms that become affiliated with Reidy after the consent order period.

(9) A statement indicating whether the applicant owned the business that purchased the products from Reidy during the entire portion of the period for which it requests a refund. If not, it should indicate the name and address of the firm that made those purchases, the date of the purchase/sale of the business and an explanation of why the applicant believes it is entitled to a refund. [12]

(10) A statement of whether the applicant is or has been involved in any DOE enforcement proceedings or private actions filed under section 210 of the Economic Stabilization Act of 1970. If these actions have been concluded, the applicant should furnish a copy of any final order issued in the matter. If these actions are still in progress, the applicant should briefly describe the actions and their current status. The applicant must inform the OHA of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d).

(11) The Application should also contain the following statement signed on or after the date of this Decision and Order by the individual applicant or a responsible official of the business or organization applying for the refund:

[12] The OHA has previously held that the party that actually purchased the products from the consent order firm was in all likelihood the party injured by an alleged overcharges and thus the proper recipient of a Subpart V refund, unless the purchaser was a corporation whose stock was sold or the right to a refund was otherwise explicitly transferred. *See, e.g., Gulf Oil Corp./Strubes Propane, Inc.,* 16 DOE ¶ 85,314 (1987); *Eastern of New Jersey/Reheis Chemcial Co.,* 16 DOE ¶ 85,056 (1987).

I swear [or affirm] that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the Federal Government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a copy of this entire application which will be placed in the OHA Public Reference Room.

All Applications for Refund should be sent to:

Reidy Special Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

All Applications for Refund should be filed in duplicate (the original and one complete copy) and should be postmarked no late than May 31, 1991. [13]

It is therefore ordered that:

(1) Applications for Refund from the funds remitted to the Department of Energy by Thomas P. Reidy, Inc. pursuant to the consent order (No. 720H06015Z) executed on January 13, 1989 may now be filed.

(2) All Applications must be filed no later than May 31, 1991.

Dated: June 20, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 90-14927 Filed 6-26-90; 8:45 am]

BILLING CODE 6450-01-M

[13] Any applicant who believes that this Application for Refund contains confidential information must indicate so on the first page of the Application and submit two additional copies of the Application with the confidential information deleted, together with a statement indicating why the information is alleged to be confidential. An applicant may request that confidential information be withheld from disclosure, but the OHA retains the right to make its own determination with regard to any claim of confidentiality *See* 10 C.F.R. 205.9(f)(2). In view of the length of time that has elapsed since the end of the Reidy consent order period, it will be difficult for an applicant to establish that the information that it submits is exempt from public disclosure under Exemption 4 of the Freedom of Information Act. *See Vinson & Elkins*, 9 DOE ¶ 80,150 (1982).

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3789-4]

Public Water Supervision Program: Program Revision for the State of Massachusetts

SUMMARY: Notice is hereby given that the Commonwealth of Massachusetts is revising it's approved State Public Water Supply Supervision Primacy Program. Massachusetts has adopted (1) drinking water regulations for eight volatile organic chemicals that correspond to the National Primary Drinking Water Regulations for eight volatile organic chemicals promulgated by EPA on July 8, 1987 (52 FR 25690) and (2) public notice regulations that correspond to the revised EPA public notice requirements promulgated on October 18, 1987 (52 FR 41534). EPA has determined that these two sets of State program revisions are no less stringent than the corresponding Federal regulations. Therefore, EPA has tentatively decided to approve these State program revisions. All interested parties are invited to request a public hearing. A request for a public hearing must be submitted by July 27, 1990, to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by July 27, 1990, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on her own motion, this determination shall become effective July 27, 1990.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual organization, or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intended to submit at such hearing. (3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Massachusetts Department of Environmental Protection, Division of Water Supply, One Winter Street, Boston, MA 02108.

and

Regional Administrator, Environmental Protection Agency—Region I, Water Supply Section or Water Supply Branch, J.F. Kennedy Federal Building, Boston, MA 02203-2211.

FOR FURTHER INFORMATION CONTACT: J. Kevin Reilly, U.S. EPA—Region I, Water Supply Section WSS-2113, J.F. Kennedy Federal Building, Boston, MA 02203-2211, Telephone: (617) 565-3619, (FTS) 835-3619.

Authority: Section 1413 of the Safe Drinking Water Act, as amended (1988); and 40 CFR 142.10 of the National Primary Drinking Water Regulations.

Julie Belaga,

Regional Administrator.

[FR Doc. 90-14268 Filed 6-26-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL 3791-9]

Public Water System Supervision Program: Program Revision for the State of Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the State of Minnesota is revising its approved State Public Water System Supervision Primacy Program. Minnesota has adopted: (1) Drinking water regulations for eight volatile organic chemicals that correspond to the National Primary Drinking Water Regulations for eight volatile organic chemicals promulgated by EPA on July 8, 1987 (52 FR 25690), and (2) public notice regulations that correspond to the revised EPA public notice requirements promulgated on October 28, 1987 (52 FR 41534). EPA has determined that these two sets of State program revisions are no less stringent than the corresponding Federal regulations. Therefore, EPA has tentatively decided to approve these State program revisions.

All interested parties are invited to request a public hearing. A request for a public hearing must be submitted within 30 days of the date of this Notice to the Regional Administrator, at the address shown below. If requests which indicate sufficient interest and/or significance are received by the end of this Notice period, a public hearing will be held. If no timely and appropriate request for a hearing is received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective 30 days from this Notice date.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing. (3) The signature of the individual making the request; or, if the

request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Water Supply and Well Management section Minnesota Department of Health, 925 SE. Delaware Street, P.O. Box 59040, Minneapolis, Minnesota 55459–0040.

State Docket Officer: Mr. Richard Clark., Phone: (612) 627–5180, and;

Safe Drinking Water Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604–1586.

FOR FURTHER INFORMATION CONTACT:

William D. Spaulding, Region V, Drinking Water Section at the Chicago address given above, telephone 312/886–9262, (FTS) 886–9262.

Authority: Sec. 1413 of the Safe Drinking Water Act, as amended, (1986) and 40 CFR 142.10 of the National Primary Drinking Water Regulations.

Dated: June 19, 1990.

Valdas V. Adamkus,

Regional Administrator, EPA, Region V.

[FR Doc. 90–14900 Filed 6–26–90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants; Eden Air Freight, Inc., et al.

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

Eden Air Freight, Inc., 1821 McGaw Ave., Irvine, CA 92714. *Officers:* Lawrence L. Rodberg, President/CEO/Director. Larry P. Rodberg, Vice Pres./Dir. of Operations & Administration. David F. Kratochvil, Vice President of Sales.

Fast Cargo U.S. Inc., 168–01 Rockaway Blvd., Jamaica, NY 11434. *Officers:* Jannette Taylor, President. Lawrence M. Marvin, Vice President. Steven Farella, Vice President.

Columbia Shipping Inc. (West), 570 North Oak Street, Inglewood, CA 90302. *Officers:* Ronald F. McDonald, President. Lawrence Bauer, Secretary/Stockholder. Guy Nishida, Vice President. Phillip Harrison, Vice President.

International Trade and Logistic Management Services, Inc. dba I.T.A.L.M.S., 301 Moon Clinton Road, Coraopolis, PA 15108. *Officers:* Alessandra Busatta in Gruelle, President. Durard Timothy Gruelle, Secretary/Treasurer.

Coastal Forwarding, 701 Parkway 575, Woodstock, GA 30188. *Officer:* Rita R. Frady, Sole Proprietor.

TCX International Inc., 3000 NW. 74th Ave., Miami, FL 33122. *Officers:* Julio Arias, President/Director. Jay B. Miranda, V. President/Director/Secretary, Assoc. Maritime Consultants, S.A., Stockholder.

By the Federal Maritime Commission.

Dated: June 21, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–14823 Filed 6–26–90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Board of Governors of the Federal Reserve System; Agency Forms Under Review

June 21, 1990.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATES: Comments must be submitted on or before July 13, 1990.

ADDRESSES: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551, or delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.8(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829).

Proposal to approve under OMB delegated authority the extension, without revision, of the following report:

1. *Report title:* Agreement of Domestic and Foreign Nonmember Banks.

Agency form number: FR T–1, T–2.

OMB Docket number: 7100–0191.

Frequency: On occasion.

Reporters: Domestic and foreign nonmember banks.

Annual reporting hours: 4.

Estimated average hours per response: 0.5.

Number of respondents: 8.

Small businesses are not affected.

General description of report: This information collection is mandatory [15 U.S.C. 78h,w] and is not given confidential treatment.

On a one-time basis, domestic and foreign nonmember banks that wish to extend credit to broker-dealers using exchange-traded securities as collateral must file this report, thereby agreeing to comply with all statutes and regulations applicable to member banks concerning such extensions of credit.

Proposal to approve under OMB delegated authority the extension, with revision, of the following reports:

1. *Report title:* Uniform Application for Municipal Securities. Principal of Municipal Securities Representative.

Associated with a Bank Municipal Securities Dealer.
Agency form number: FR MSD–4.
OMB Docket number: 7100–0100.
Frequency: On occasion.
Reporters: State member banks who engage in activities as municipal securities dealers, and persons who are or seek to be associated with such dealers as municipal securities principals or representatives.
Annual reporting hours: 369.
Estimated average hours per response: 1.
Number of respondents: 369.
Small businesses are not affected.
General description of report: This information collection is mandatory [15 U.S.C. 78c(a)(34)(A), 78o–4, 78o–4(b)(2)(A), 78o–4(c)(5), 78q, and 78w] and is given confidential treatment [5 U.S.C. 552(b)(6)].

The filing of this application is required of a Municipal Securities Dealer Bank (MSD) and a person associated with an MSD, prior to such person functioning in a professional capacity. This application serves to verify compliance with the rules of the Municipal Securities Rulemaking Board and with related securities and banking laws. It is also used as a source document for entry into an interagency computer system of records. The proposed revisions involve the addition of certain phrases to the form and of a sentence to the instructions.

2. *Report title:* Uniform Termination Notice for Municipal. Securities Principal or Municipal Securities. Representative Associated with a Bank Municipal. Securities Dealer.
Agency form number: FR MSD–5.
OMB Docket number: 7100–0101.
Frequency: On occasion.
Reporters: State member banks who engage in activities as a municipal securities dealer.
Annual reporting hours: 94.
Estimated average hours per response: 0.25.
Number of respondents: 377.
Small businesses are not affected.
General description of report: This information collection is mandatory [15 U.S.C. 78c(a)(34)(A), 78o–4, 78o–4(b)(2)(A), 78o–4(c)(5), 78q, and 78w] and is given confidential treatment (5 U.S.C. 552(b)(6)).

This notice must be filed within 30 days after a person associated in a professional capacity with a bank municipal securities dealer terminates employment. The notice is a compliance vehicle for rules of the Municipal Securities Rulemaking Board and for related securities and banking laws. It is also a source document for updating information on an interagency computer system of records. The proposed revisions involve the addition of certain phrases to the form and of a sentence and a Privacy Act notice to the instructions.

Board of Governors of the Federal Reserve System, June 21, 1990.
William W. Wiles,
Secretary of the Board.
[FR Doc. 90–14865 Filed 6–26–90; 8:45 am]
BILLING CODE 6210–01–M

George Gale Foster Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 19, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *George Gale Foster Corporation,* Poughkeepsie, New York; to become a bank holding company by acquiring 51 percent of the voting shares of Fishkill National Corporation, Beacon, New York, and thereby indirectly acquire Fishkill National Bank, Beacon, New York.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Banks, Inc.,* St. Louis, Missouri; to acquire 100 percent of the voting shares of Havana Bancshares, Inc., Springfield, Illinois, and thereby indirectly acquire State Bank of Havana, Havana, Illinois.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Sand Springs Bancshares, Inc.,* Tulsa, Oklahoma; to become a bank holding company by acquiring Bank of Oklahoma Sand Springs, Sand Springs, Oklahoma, which will be renamed Sand Springs Bank.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Chico Bancorp, Inc.,* Chico, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The First State Bank, of Chico, Chico, Texas.

Board of Governors of the Federal Reserve System, June 21, 1990.
Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 90–14864 Filed 6–26–90; 8:45 am]
BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers For Disease Control

[Program Announcement Number 033]

Availability of Fiscal Year 1990 Funds for Chronic Disease Prevention and Control Program in Hispanic Communities

Introduction

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1990 for a cooperative agreement for chronic disease prevention and control programs, activities, and strategies in Hispanic communities.

Authority

This program is authorized by section 301(a) (42 U.S.C. 241(a)) of the Public Health Service Act, as amended.

Eligible Applicants

Eligible applicants for this program are national, nonprofit agencies and organizations serving Hispanic communities, that have broad experience and expertise in activities to plan, develop, and disseminate chronic disease prevention and control programs. Applicants must demonstrate experience in either providing health care services or health education services to Hispanics. Limited competition is justified because of: (1) The highly technical and specific nature

of the tasks to be implemented, and (2) the need for broad implementation of the findings which are national in scope. Applicants must show that their organization is truly national; i.e., that it has a national membership and addresses problems and issues related to the specific field of chronic disease prevention and health promotion among a national audience.

Availability of Funds

Approximately $100,000 is available in Fiscal Year 1990 to fund one award. It is expected that the award will be made on or about September 1, 1990, for a 12-month budget within a 1- to 2-year project period. Funding estimates may vary and are subject to change. A continuation award within the approved project period will be made on the basis of satisfactory performance and the availability of funds.

Purpose

The purpose of this program is to provide assistance to health care professionals and other experts in the provision of health care to Hispanics to: (1) Documents gaps and needs in data that describe the health status of Hispanic populations; (2) document the effectiveness and efficacy of existing chronic disease prevention and control programs in Hispanic populations; and (3) produce and disseminate a document that synthesizes the key elements of successful and replicable strategies and activities for Hispanic populations. Because the health status and needs of Hispanic sub-population groups (Mexican-Americans, Puerto Ricans, Cuban-American and other Latinos) may vary significantly, it is critically important that this program identify and present methods that will produce sub-population groups specific information and recommendations.

Cooperative Activities

Recipient Activities

Applicants' specific methods for accomplishing these activities may vary, however, these activities must be included by each applicant:

a. Convene a meeting(s) of health care professionals and other experts providing health care to Hispanics to evaluate the quality of existing data for Hispanic populations and to identify and document specific data gaps for each of the Hispanic sub-population groups.

b. Convene a meeting(s) of health care professionals and other experts providing health care to Hispanics to catalog and assesses currently existing chronic disease prevention and control programs and activities.

c. Develop and disseminate a document which describes the salient features of chronic disease prevention and control programs for Hispanic populations that are effective. Appropriateness for replication in other sites is critical element.

Center for Disease Control Activities

In addition to financial assistance provided, CDC will collaborate with the recipient by:

a. Participating in the development and implementation of the meetings convened by the recipient and provide assistance to assure that the health status and needs for each of the major Hispanic sub-population groups are addressed.

b. Providing guidance and consultation in the collection and analysis of data. CDC will have substantive involvement in the interpretation and report writing stages.

c. Providing guidance and consultation in the evaluation of existing chronic disease prevention and control programs and activities. CDC will search existing in-house databases and will involve its national network in the search for data sources specific to Hispanic populations.

d. Providing guidance and consultation in establishing criteria for the identification of effective programs.

Evaluation Criteria

Applications will be reviewed, ranked with other applications, and evaluated based on the following criteria:

1. Evidence that the applicant's understanding of the problem and purpose of the cooperative agreement is consistent with the stated programmatic interests of CDC. This description must include evidence of the applicant's understanding of the cultural and health differences among the Hispanic sub-population groups. (30 points)

2. Evidence that the objectives are consistent, time-phased and measurable with the stated purpose of the cooperative agreement. (20 points)

3. Evidence of experience and expertise in the delivery of similar programs and activities to the target population and the ability to provide the supervisory capability, staffing, and other resources necessary to perform and manage the program. (25 points)

4. The adequacy of the applicant's plan to monitor progress toward meeting the objectives of the project. (25 points)

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 13.283.

Application Submission and Deadline

The original and two copies of the application (PHS Form 5161-1) must be submitted to Candice Nowicki, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, MS-E14, Atlanta, Georgia 30305 on or before August 3, 1990.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications that do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

Information on application procedures, copies of application forms, and other material may be obtained from Linda Long, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, (404) 842-6511.

Announcement Number 033, "COOPERATIVE AGREEMENT FOR CHRONIC DISEASE PREVENTION AND CONTROL PROGRAM IN HISPANIC COMMUNITIES" must be referenced in all requests for information pertaining to these projects.

Technical Assistance may be obtained from Charles Nelson, Division of Chronic Disease Control and Community Intervention, Mailstop F45, Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333, (404) 488-4921 or FTS 236-4921.

Dated: June 21, 1990.

Signed by:

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 90-14887 Filed 6-26-90; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 90F-0204]

Pennwalt Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Pennwalt Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of poly(vinylidene fluoride) homopolymer and an increase in the weight-percent of vinylidene fluoride in vinylidene fluoride-hexafluoropropylene copolymers, as adjuvants in the production of olefin polymers for food-contact use.

FOR FURTHER INFORMATION CONTACT:

Richard H. White, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmestic Act (Section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B4169) has been filed by Pennwalt Corp., Three Parkway, Philadelphia, PA 19102-1389. The petition proposed to amend § 177.1520 Olefin polymers (21 CFR 177.1520) to provide for the safe use of poly(vinylidene fluoride) homopolymer and an increase in the weight-percent of vinylidene fluoride in vinylidene fluoride-hexafluoropropylene copolymers, as adjuvants in the production of olefin polymers for food-contact use.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's findings of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: June 20, 1990.

Douglas L. Archer,

Acting Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-14937 Filed 6-26-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90F-0188]

Toyobo Co., Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Toyobo Co., Ltd., has filed a petition proposing that the food additive regulations be amended to expand the conditions of use of hexanedioic acid polymer with 1,3-benzenedimethanamine as a modifier for polyethylene phthalate polymers in contact with food.

FOR FURTHER INFORMATION CONTACT:

Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 0B4204) has been filed by Toyobo Co., Ltd., Toyobo Research Center, 1-1, 2-Chome Katata, Otsu, Shiga 520-02, Japan, proposing that § 177.1630 Polyethylene phthalate polymers (21 CFR 177.1630) be amended to expand the conditions of use of hexanedioic acid polymer with 1,3-benzenedimethanamine as a modifier for polyethylene phthalate polymers in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: June 20, 1990.

Douglas L. Archer,

Acting Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-14938 Filed 6-26-90; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Pulmonary-Allergy Drugs Advisory Committee

Date, time, and place. July 23, 1990, 8:30 a.m., Conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearings, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; Isaac F. Roubein, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

General function of the committee. The committee reviews and evaluates date on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 16, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and address of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss: (1) Exosurf®, pediatric sterile powder, NDA 20-044 (colfosceril palmitate), Burroughs Wellcome Co., and (2) Survanta®, NDA 20-032 (beractant), Ross Laboratories.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public

hearing portion. Whether or not it also included any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represent a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committee shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10 (a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated June 21, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-14866 Filed 6-26-90; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Establishment; Genome Research Review Committee

Pursuant to the Federal Advisory Committee Act of October 6, 1972 [Pub. L. 92-463, 86 Stat. 770-776] and section 402(b)(6), of the Public Health Service Act, as amended (42 U.S. Code 282(b)(6)), the Acting Director, National Institues of Health (NIH), announces the etablishment of the Genome Research Review Committee.

This Committee shall advise the Director, NIH, regarding applications for grants-in-aid for research and research training relevant to characterization of the genome of the human and of model organisms. The committee will provide a primary review of grant applications, cooperative agreements, and contract proposals for special research programs, including program projects and centers, institutional fellowships, conference proposals, and special developmental award programs in the aforementioned areas.

The members of this committee shall consist of outstanding authorities in the various scientific fields which come within the jurisdiction of the committee.

Duration of the committees is continuing unless formally determined by the Director, NIH, that termination would be in the best public interest.

Dated: June 20, 1990.

William F. Raub,

Acting Director, National Institutes of Health.

[FR Doc. 90-14843 Filed 6-26-90; 8:45 am]

BILLING CODE 4140-01-M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of July 1990:

Name: National Advisory Council on Health Professions Education.

Date and Time: July 19-20, 1990, 9 a.m.

Place: Conference Room G and H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Closed on July 19, all day.

Open on July 20, all day.

Purpose: The Council advises the Secretary with respect to the administration of programs of Financial assistance for the health professions and makes recommendations based on its review of applications requesting such assistance. This also involves advice in the preparation of regulations with respect to policy matters.

Agenda: The open portion of the meeting will cover orientation for new members, welcome and opening remarks, report of the Administrator, Health Resources and Services Administration, report of the Director, Bureau of Health Professions, private foundation presentations and presentations on the mission activites and functions of the Agency for Health Care Policy and Research and the Office of Minority Health. The meeting will be closed on July 19 all day for the review of applications for financial assistance for Grants for Allied Health Special Projects, Health Education and Training Centers, Model Education Projects for Health Professions, Interdisciplinary Training for Health Care for Rural Areas and AIDS Regional Education and Training Centers. The closing is in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C. Code, and the Determination by the Administration, Health Resources and Services Administration, pursuant to Public Law 92-463.

Anyone requiring information regarding the subject Council should contact Ms. Wilma J. Johnson, Executive Secretary, National Advisory Council on Health Professions Education, room 8C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone (301) 443-6880.

Agenda Items are subject to change as priorities dictate.

Dated: June 21, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90-14802 Filed 6-26-90; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Meeting of the Research Working Group of the National Deafness and Other Communication Disorders Advisory Council

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Research Working Group of the National Deafness and Other Communication Disorders Advisory Council on July 20, 1990. The meeting will take place from 10 a.m. to adjournment at 5 p.m. in Conference Room 4, Building 31A, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting which will be open to the public, is being held to discuss the FY 1992 initiatives for the National Institute on Deafness and Other Communication Disorders. Attendance by the public will be limited to space available.

Ms. Monica Davies, Research Working Group Coordinator, room 1B62, Building 31, NIH Campus, Bethesda, Maryland 20892, (301) 496-7243, will provide on request an agenda and roster of participants. Summaries of the meeting may also be obtained by contacting her office.

Dated: June 21, 1990.

Betty J. Beveridge,

NIH Committee Management Office.

[FR Doc. 90-14840 Filed 6-26-90; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-050-43-7122-10-U058; CA 26008]

Realty Action; Noncompetitive Sale of Public Lands in Trinity County; CA

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of realty action; Noncompetitive sale of public lands in Trinity County; California

SUMMARY: The following public land has been found suitable for direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 USC 1713), at not less than the estimated fair market value. The land will not be offered for sale until at least 60 days after the date of this notice.

Mount Diablo Meridian

T. 32 N., R. 9 W.,

Sec. 32: Lot 8.

Containing 9.46 acres, more or less.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

This land is being offered by direct sale to Lloyd and Jane Remly. It has been determined that the subject parcel contains no known mineral values; therefore, mineral interests may be conveyed simultaneously. Acceptance of the direct sale offer will qualify the purchaser to make application for conveyance of those mineral interests.

DATES: Until August 13, 1990, interested parties may submit comments to the Area Manager, Redding Resource Area, 355 Hemsted Drive, Redding, California 96002. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

ADDRESSES: Detailed information concerning this action is available for review at the office listed above.

FOR FURTHER INFORMATION CONTACT: Patricia Cook, Realty Specialist, Redding Resource Area, at the above address.

SUPPLEMENTARY INFORMATION: The patent, when issued, will contain a reservation to the United States for ditches and canals.

Mark T. Morse,

Area Manager.

[FR Doc. 90-14870 Filed 6-26-90; 8:45 am]

BILLING CODE 4310-40-M

Fish and Wildlife Service

Availability of Draft Recovery Plan for the Primula Maquirei for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of the draft recovery plan for *Primula maquirei* (Maguire primrose), a species of primrose from Logan Canyon in northern Utah. This threatened species occurs on dolomitic limestone cliffs and boulders in the lower portions of Logan Canyon, Utah. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before August 13, 1990, to ensure they receive consideration by the Service.

ADDRESSES: Person wishing to review the draft recovery plan may obtain a copy by contacting: Field Supervisor, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, 2060 Administration Bldg., 1745 W. 1700 S., Salt Lake City, Utah 84104, 801/524-4430 or (FTS) 588-4430. Written comments and materials regarding this plan should be sent to the Field Supervisor at the Salt Lake City address given above. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John L. England, Botanist, at the Salt Lake City address and telephone numbers given above.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies also will take these comments into account in the course of implementing approved recovery plans.

Primula maguirei was listed under the Act as a threatened species on August 21, 1985, (50 FR 33734) due to current and potential threats to the species' population and habitat from overcollecting and from habitat destruction, primarily as a result of highway construction and improvement. Initial recovery efforts will focus on protecting the species' population and habitat from habitat-destroying

activities through section 7 and section 9 of the Act. The species' entire habitat is on land under the jurisdiction of the U.S. Forest Service. Additional recovery efforts will focus on *P. maguirei* population inventory and minimum viable population studies. Given the species' vulnerability and lack of suitable habitat, it is doubtful that delisting of the species will occur in the foreseeable future.

Public Comments Solicited

The Service solicits written comments on the Maguire Primrose Recovery Plan described above. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: June 21, 1990.

John L. Spinks, Jr.,

Deputy Regional Director.

[FR Doc. 90-14886 Filed 6-26-90; 8:45 am]

BILLING CODE 4310-55-M

Release of Review Draft of Long-Range Plan

AGENCY: Department of the Interior.

ACTION: Notice of release of review draft.

SUMMARY: This notice announces release to agencies, interested groups and the general public, of a review draft of a long-range plan (Plan) for implementing the Klamath River Basin Conservation Area Restoration Program, a 20-year program to restore anadromous fish populations and habitats of the Klamath River basin, California and Oregon. The Plan will be distributed in two forms: complete Plan documents and Environmental Assessments (EA's) will be distributed to agencies, Tribes, libraries, and interested groups; a summary Plan document will be distributed to a list of individuals who have expressed an interest in the Restoration Program. Those additional persons wishing to review the Plan and EA may obtain a summary of the Plan, and the EA, from the address indicated below under **FOR FURTHER INFORMATION CONTACT**, or may review the complete Plan and EA at the locations indicated below under **ADDRESSES**.

DATES: The draft Plan is expected to be available for comment by June 11, 1990. Comments will be accepted through August 10, 1990. Written comments may be sent to the address indicated below under **FOR FURTHER INFORMATION CONTACT**. Two public meetings will be scheduled late in the comment period to receive additional comments. Members of the Klamath River Basin Fisheries Task Force, and advisory committee providing guidance on conduct of the Restoration Program, will attend the public meetings to hear comments. Dates and locations of those meetings will be provided in a later notice.

ADDRESSES: Copies of the complete Plan document will be available for review at the following locations, during normal business hours:

Libraries: Siskiyou County Public Library, 719 4th Street, Yreka, CA; Trinity County Public Library, 229 Main, Weaverville, CA; Humboldt County Public Library, 421 "I" Street, Eureka, CA; Del Norte County Public Library, 190 Price Mall, Crescent City, CA; Klamath County Public Library, Klamath Falls, OR; Happy Camp Branch Library, 143 Buckhorn Road, Happy Camp, CA; Orleans Elementary School Library, Orleans, CA; Weitchpec Store, Weitchpec, CA; Humboldt State University Library, Arcata, CA; Southern Oregon State College Library, Ashland, OR;

Federal Offices: U.S. Fish & Wildlife Service, Klamath Field Office, 1030 South Main, Yreka, CA; U.S. Fish & Wildlife Service, Trinity River Field Office #3 Horseshoe Square, Weaverville, CA; U.S. Fish & Wildlife Service, Arcata Fisheries Assistance Office, 1125 16th Street, room 209, Arcata, CA; Six River National Forest, 500 5th Street, Eureka, CA; Gasquet Ranger District, Gasquet CA; Orleans Ranger District, Orleans, CA; Lower Trinity Ranger District, Willow Creek, CA; Mad River Ranger District, Bridgeville, CA; Klamath National Forest Headquarters, 1312 Fairlane Road, Yreka, CA; Oak Knoll Ranger District, 22541 Highway 96, Klamath River, CA; Happy Camp Ranger District, Happy Camp, CA; Salmon River Ranger District, Fort Jones, CA; Goosenest Ranger District, Orleans, CA; Klamath National Wildlife Refuge, Tulelake, CA; U.S. Fish & Wildlife Service, Regional Office, 1002 NE Holladay Street, Portland, OR;

Other Government Offices: California Department of Fish & Game, 601 Locust Street, Redding, CA; Hoopa Valley Business Council, Hoopa, CA; Yurok Transition Team, 517 Third Street, #18, Eureka, CA; Klamath Tribal Office, Old Williamson Business Park, Hwy 97, Chiloquin, OR; Karuk Tribal Office, 746 Indian Creek Road, Happy Camp, CA.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, U.S. Fish & Wildlife Service, Klamath Field Office, P.O. Box 1006 (1030 South Main), Yreka, California 96097-1006, telephone (916) 842-5763.

SUPPLEMENTARY INFORMATION: For further information on the Klamath River Basin Conservation Area Restoration Program, see 16 U.S.C. 460ss-ss6 (the "Klamath Act").

Dated: June 6, 1990.

William E. Martin,

Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 90-14805 Filed 6-26-90; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Pacific Regional Technical Working Group Committee

AGENCY: Minerals Management Service, Interior.

ACTION: Recruitment of two discretionary members for the Pacific Regional Technical Working Group.

The Pacific Outer Continental Shelf (OCS) Region is accepting nominations to fill two discretionary member vacancies on the Pacific Regional Technical Working Group (RTWG) Committee. One is desired with expertise in the environmental area and one is desired with expertise in the petroleum industry.

Nomination packages should consist of a letter explaining the nominee's qualifications and how the individual would contribute to the effectiveness of the RTWG Committee, and a current resume or biographical profile.

The deadline for receipt of nominations is July 25, 1990.

Nomination packages should be submitted to RTWG Coordinator, Pacific OCS Region, Minerals Management Service, 1340 West Sixth Street, Los Angeles, California 90017.

FOR FURTHER INFORMATION CONTACT: Lorraine H. Lawrence, RTWG Coordinator at the above address; telephone (213) 894-3389, (FTS 798-3389).

The RTWGs are part of the OCS Advisory Board and were established to advise the Minerals Management Service Director on technical matters of regional concern regarding offshore prelease and postlease sales activities. The Pacific RTWG membership consists of representatives from Federal Agencies, the coastal states of California, Washington, and Oregon, the petroleum industry, and other private interests. The RTWG discretionary members serve a 2-year term. The RTWG committee meets twice a year. Members serve without compensation.

Per diem and travel expenses are reimbursed for attending meetings, reflecting the provisions of the Federal Travel Regulations.

Appointments will be made by the Secretary of the Interior with the objective of achieving a balance of viewpoint and a range of technical expertise of regional OCS activities.

Dated: June 20, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

[FR Doc. 90-14844 Filed 6-26-90; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-281]

Certain Recombinant Erythropoietin; Notice of Commission Order Dismissing Complaint on the Merits for Failure to State a Proper Claim Under Section 337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (Commission) has dismissed Amgen, Inc.'s (Amgen) complaint in the above captioned case on the merits for failure to state a proper claim under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337.

ADDRESSES: Copies of the Order and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-252-1104. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: On February 10, 1988, the Commission instituted an investigation under section 337 based on a complaint filed by Amgen of Thousand Oaks, California. 53 FR 3948. The notice of investigation named Chugai Pharmaceuticals of Japan and Chugai U.S.A. of New York, New York (collectively, Chugai) as respondents. Amgen's complaint alleged that Chugai was violating section 337 by importing recombinant erythropoietin (rEPO) into the United States, which rEPO was manufactured abroad by use of host cells that fell within the claims of Amgen's U.S. Letters Patent 4,703,008 (the '008 patent).

On April 10, 1989, the Commission dismissed Amgen's complaint for lack of subject matter jurisdiction and terminated the investigation. Amgen appealed the Commission's decision to the U.S. Court of Appeals for the Federal Circuit (Federal Circuit). On April 27, 1990, the Federal Circuit vacated the Commission's decision and remanded the case to the Commission, instructing the Commission to dismiss Amgen's complaint on the merits for failure to state a proper claim under section 337.

This action is taken under authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

By order of the Commission.

Issued: June 19, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-14928 Filed 6-26-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-313]

Certain Process, Apparatus, and Components Thereof, For the Production of Spunbond Nonwoven Fabric, and Fabric Made Therefrom; Notice of Decision Not To Review an Initial Determination Granting a Motion To Amend the Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has determined not to review the presiding administrative law judge's (ALJ's) initial determination (ID) granting a motion for leave to amend the complaint in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone: (202) 252-1102. Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone (202) 252-1000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 252-1810.

SUPPLEMENTARY INFORMATION: The Commission voted to institute this investigation on April 30, 1990. The notice of investigation was published in the **Federal Register** on May 9, 1990 (55 FR 19369). On May 11, 1990, complainant Kimberly-Clark Corp. filed a motion (Motion No. 313-1) for leave to amend its complaint. The amendment corrects certain errors made in Confidential Exhibit 17 relating to complainant's sales of various products containing spunbond nonwoven fabric. On May 21, 1990, the Commission investigative attorney filed a response indicating no opposition to the motion. Respondents took no position on the motion. On May 31, 1990, the ALJ issued an ID (Order No. 4) granting complainant's motion. No petitions for review or agency comments were received.

This action is taken pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and Commission interim rule 210.53(h) (19 CFR 210.53(h)).

By order of the Commission.

Issued: June 20, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-14929 Filed 6-26-90; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub 353X)]

CSX Transportation, Inc.—Abandonment Exemption—In Cumberland County, NC

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonments to abandon its 577 feet of track between valuation stations 4717+96 and 4712+19, at Fort Junction, just past the point of switch to Fort Bragg, near Fayetteville, in Cumberland County, NC.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been

notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 27, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and train use/rail banking statements under 49 CFR 1152.29 must be filed by July 9, 1990.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by July 17, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by July 2, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: June 14, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90-14739 Filed 6-26-90; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

[Finance Docket No. 31700]

Canadian Pacific Limited, et al.—Purchase and Trackage Rights—Delaware & Hudson Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Prefiling notice and procedural schedule.

SUMMARY: On June 8, 1990, Canadian Pacific Limited (CP) and D&H Corporation (D&H Corp.) and Francis P. Dicello, Trustee in Reorganization of the Delaware & Hudson Railway Company (Trustee) jointly notified the Commission pursuant to 49 CFR 1180.4(b)(1) that they intend to file applications under 49 U.S.C. 11343, *et seq.* for D&H Corp. to acquire from Delaware & Hudson Railway Company (D&H): (1) Substantially all of D&H's rail assets, properties and business; and (2) through assignment, various trackage rights over lines of other rail carriers. The application is expected to be filed July 16, 1990.

The Commission has agreed to accommodate the Bankruptcy's Court Order dated June 8, 1990 (as amended on June 12, 1990), and complete the proceeding within 90 days after the application is filed.

DATES: The Commission is establishing the following schedule and procedures:

June 29, 1990: Notices of intent to participate must be filed and served on applicants.

July 6, 1990: The Commission will prepare and serve the service list.

July 16, 1990: The applications are due to be filed: copies of applications must be served on all parties.

August 13, 1990: Verified comments on the application must be filed.

August 27, 1990: Replies to comments are due.

Dates for any needed further procedures, including a discovery conference and/or oral argument, will be set at a later time.

ADDRESSES: Send an original and 15 copies of all documents to:

Office of the Secretary, Case Control Branch, Attn: Finance Docket No. 31700, Interstate Commerce Commission, Washington, DC 20423

Also send one copy of all filings to the Attorney General of the United States, the Secretary, United States Department of Transportation, and each of applicants' representatives:

Attorney General of the United States, 555 4th Street, NW. room 9104, Washington, DC 20530

Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590

Applicants' representatives:

Charles H. White, Jr., Hazel, Thomas, Fiske, Weiner, Beckhorn & Hanes, 2001 Pennsylvania Avenue, NW, Washington, DC 20006

Terence M. Hynes, Sidney & Austin, 1722 Eye Street, NW., Washington, DC 20006

Katharine F. Braid, Canadian Pacific Limited, 40 University Avenue, Suite 918, Toronto, Ontario M5J 1T1

FOR FURTHER INFORMATION CONTACT:

Joseph H. Dettmar (202) 275-7245 [TDD for hearing impaired: (202) 275-1721]

SUPPLEMENTARY INFORMATION: On June 20, 1988, D&H filed a petition for reorganization under Chapter 11 of the Bankruptcy Code before the United States Bankruptcy Court for the District of Delaware (court). Case No. 88-432, *In re Delaware & Hudson Railroad Company*.

On May 15, 1990, The Trustee and CP entered into a letter agreement providing for CP's purchase of substantially all of D&H's rail assets, properties and business, including D&H's stock interest in the Albany Port Railroad Corporation, Albany and Vermont Railroad Company, Saratoga and Schenectady Railroad Company, Wilkes-Barre Connecting Railroad Company, and Northern Coal and Iron Company.

D&H Corp. will also acquire, through assignment, D&H's trackage rights over certain lines of: (1) Consolidated Rail Corporation; (2) Boston and Maine Corporation; (3) Buffalo, Rochester and Pittsburgh Railway Company; (4) CSX Transportation, Inc., (5) National Railroad Passenger Corporation; (6) Wilkes-Barre Connecting Railroad; and (7) "any other line or facility which forms a constituent part of D&H's rail system and with respect to which D&H has trackage rights."

The parties expect to complete an Asset Purchase Agreement by July 13, 1990.

Applicants' notice identifies the transaction as "significant" under 49 CFR 1180.2(b), since it involves CP, a class I railroad, and D&H, a class I carrier, and involves a "major market extension."

The acquisition is governed by 49 U.S.C. 11344(d), which states:

(d) In a proceeding under this section which does not involve the merger or control of at least two class I railroads, as defined by the Commission, the Commission shall approve such an application unless it finds that—

(1) as a result of the transaction, there is likely to be a substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

Our assessment of competitive harm under section 11344(d) requires a showing that any adverse competitive impact be both "likely" and "substantial." Such adverse impacts might be higher rail rates or deteriorated rail service levels as a result of the transaction.

D&H filed for reorganization in 1988, and its operations have been performed under directed service for quite some time. D&H's financial status, the interests of the Trustee, the bankruptcy court, the U.S. Government, and the prospective purchaser, as well as the public interest all strongly support an expedited decision.

To accommodate the 90-day schedule, we are establishing an expedited procedural schedule for developing the record.[1] Discovery will be permitted if necessary, and a discovery conference may be scheduled. The parties should make supporting work papers available for inspection and negotiate confidentiality agreements where necessary, similar to the terms proposed by the Applicants.[2] We encourage any necessary discovery to begin immediately and be conducted amicably. We caution that discovery must be limited to the applications before us and the relevant statutory criteria. Abuse of discovery and delay of the process will not be countenanced, and we do not intend to extend filing dates.

[1] Applicants' proposed schedule, set forth in their June 8th petition for waiver and clarification, is not adopted. The waiver requests will be addressed in a subsequent decision.

[2] We will adopt the protective order proposed by the Applicants in their motion filed June 8, 1990.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: June 20, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90-14916 Filed 6-26-90; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub 153X)]

Illinois Central Railroad Co.—Abandonment Exemption—In Macon County, IL

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 10.5-mile line of railroad between milepost 755.20, at Forsyth, and milepost 765.70, at Maroa, in Macon County, IL.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 27, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by July 9, 1990.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by July 17, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: John H. Doeringer, 20180 Governors Highway, Olympia Fields, IL 60461.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by July 2, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: June 18, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90-14741 Filed 6-26-90; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

[Docket No. AB-290 (Sub-No. 81X)]

Southern Railway Co.—Discontinuance of Trackage Rights Operations Between Greenwood and Piedmont, South Carolina

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission is exempting from the prior approval

requirements of 49 U.S.C. 10903–10904 Southern Railway Company's discontinuance of trackage rights operations over a 40.08-mile line owned by CSX Transportation, Inc. (CSX), from Milepost AKL–4.86 near Greenwood, South Carolina to Milepost AKL–44.94 near Piedmont, South Carolina, subject to employee protective conditions.

DATES: This exemption will be effective on July 27, 1990. Petitions to stay must be filed by July 12, 1990. Petitions for reconsideration must be filed by July 23, 1990.

ADDRESSES: Send pleadings referring to Docket No. AB–290 (Sub-No. 81X) to:

(1) Office of the Secretary: Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Virginia K. Young, Solicitor, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245 [TDD for hearing impaired: (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in persons from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275–1721.)

Decided: June 20, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simons, Lamboley, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90–14917 Filed 6–26–90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of Special Counsel for Immigration Related Unfair Employment Practices

Immigration Related Employment Discrimination Public Education Grants

AGENCY: Office of Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice.

ACTION: Notice of availability of funds and of solicitation for grant applications.

SUMMARY: The Office of Special Counsel for Immigration Related Unfair Employment Practices announces the availability of up to $750,000 for conducting public education programs concerning the rights afforded potential victims of employment discrimination and the responsibilities of employers under the antidiscrimination provision of the Immigration Reform and Control Act of 1986, 8 U.S.C. 1324b. It is anticipated that a number of grants will be awarded, ranging in size from $40,000 to $100,000.

DATES: June 27, 1990.

FOR FURTHER INFORMATION CONTACT: Juan Maldonado, Senior Trial Attorney, Office of Special Counsel for Immigration Related Unfair Employment Practices, 1100 Connecticut Avenue NW., Suite 800, P.O. Box 65490, Washington, DC 20035–5490. Tels. (202) 653–8121, 1–800–255–7688 (toll-free), (202) 296–0168 (TDD for the hearing impaired), or 1–800–237–2515 (toll-free TDD for the hearing impaired.

SUPPLEMENTARY INFORMATION: The Office of Special Counsel for Immigration Related Unfair Employment Practices ("OSC") of the Department of Justice ("DOJ") announces the availability of funds to conduct public education programs concerning the anti-discrimination provision of the Immigration Reform and Control Act of 1986 ("IRCA"), 8 U.S.C. 1324b. A number of projects will be funded for selected applicants who propose novel and effective ways of disseminating information to employers and to members of the protected class or to fill a particularized need not currently being met.

Background

On November 6, 1986, President Reagan signed into law the Immigration Reform and Control Act of 1986, Public Law No. 99–603. IRCA makes it unlawful for employers to hire aliens not authorized to work in the United States and requires employers to verify the identity and work authorization of all new employees. Employers who run afoul of the law are subject to fines and criminal prosecution. During Congressional debate of IRCA, Congress foresaw the possibility that employers, fearful of sanctions, would refuse employment to individuals who looked or sounded foreign. Responding to that concern, Congress enacted section 102 of IRCA, an antidiscrimination provision. Section 102 prohibits discrimination in hiring, firing, recruitment or referral for a fee by employers against work authorized aliens who are intending citizens. An intending citizen is a permanent resident, temporary resident under the amnesty program, refugee or asylee who intends to become a citizen. Section 102 also prohibits naitonal origin discrimination against all work authorized individuals with respect to hiring, firing, recruitment and referral for a fee. This prohibition applies to employers with four to fourteen employees. National origin discrimination complaints against employers with fifteen or more employees remain under the jurisdiction of the Equal Employment Opportunity Commission under title VII of the Civil Rights Act of 1964.

Congress created the OSC to enforce section 102. OSC is responsible for investigating discrimination charges received and, when appropriate, filing complaints with a specially designated administrative tribunal. OSC also initiates independent investigations of possible section 102 violations.

While OSC has established a record vigorous enforcement, studies by the U.S. General Accounting Office and others have shown that there is an extensive lack of knowledge about the antidiscrimination provision. Enforcement of the antidiscrimination provision cannot be effective if potential victims of discrimination are not aware of their rights. Moreover, discrimination can never be eradicated so long as employers are not aware of their responsibilities.

Congress has reacted to this concern by appropriating funds earmarked for public education and outreach concerning the antidiscrimination provision. The Conference Report accompanying the FY 1990 appropriation for the Department of Justice specifies that "(funds) be available for use by the Office of Special Counsel for publicizing both the obligations of employers and the rights of job applicants under section 102 of the Immigration Reform and Control Act of 1986." H.R. Conf. Rep. No. 299, 101st Cong., 1st Sess. 24–25 (1989).

Additionally, the House Appropriations Committee strongly supported increased public education efforts through the use, to the maximum extent possible, of existing community groups and networks, qualified designated entities, and local ethnic organizations to extend the scope and range of the educational campaign. H.R. Comm. on Approp. Rep. No. 144, 101st Cong., 1st Sess. 39.

Purpose

OSC seeks to educate potential victims of discrimination and employers about the antidiscrimination provision of IRCA.

Program Description

The program is designed to develop and implement novel and cost effective approaches in disseminating information about the protection afforded by IRCA's antidiscrimination provision. The campaign should focus on educating potential victims of employment discrimination; however, proposals designed to educate employers about their responsibilities under IRCA will also be favorably considered. Proposals should outline the following key elements of the program:

Part I: Targeted Population

The educational efforts under the grant should be directed to either (1) work authorized aliens who are intending citizens, since this group is especially vulnerable to employment discrimination, or (2) employers. The proposals should define the characteristics of the work authorized alien population group(s) targeted for the educational campaign, by determining such factors as location (both city and state), nationality, citizenship status, main language used and, where available, any other additional information such as education and occupation.

The proposals should also detail the reasons for targeting each group by describing particular needs or other factors to support the selection. In defining the targeted population and supporting the reasons for the selection, applicants may use studies or surveys conducted in the area, or any other sources of information of generally accepted reliability.

Part II: Campaign Strategy

We encourage applicants to devise creative means of information dissemination which are specifically designed to effectively reach the targeted population. OSC's experience in public education suggests that some of the traditional tools of public communication may be less than optimal for disseminating information to members of the protected class, especially members of national or linguistic groups that have limited community-based support and communication networks.

Proposals should discuss the components of the campaign strategy, detail the reasons supporting the choice of each component, and explain how each component will effectively achieve the overall objective of innovative and cost effective dissemination of credible information to members of the targeted groups. Discussions of the campaign strategies and supporting rationale should be clear, concise, and based on sound evidence and reasoning.

A key element of the campaign is dissemination of accurate information about the OSC and its mission. Accordingly, any educational materials developed by a grantee must be reviewed by OSC for legal accuracy prior to production. Additionally, all information distributed to potential victims of discrimination should include mention of the OSC as a source of assistance, information and action. The information should also include the correct address and telephone numbers of the OSC (including the toll-free and TDD toll-free numbers for the hearing impaired).

Part III: Evaluation of the Strategy

One of the central goals of this program is to determine what public education strategies are most effective in disseminating information about the antidiscrimination provision. To be effective in planning future public education efforts, OSC needs to know what works and what does not. It is therefore essential that each proposal set forth reliable criteria to evaluate the effectiveness of the campaign at the conclusion of the period of performance.

Each proposal must explain the methods the applicant intends to use to measure the effectiveness of the campaign, and how the proposed evaluation criteria will indicate to what degree the campaign succeeded in meeting its goals. The proposal should also indicate the projected date for the delivery of the final evaluation at the conclusion of the period of performance.

Selection Criteria

Prospective applicants are advised that the final selection of grantees for award is to be made by the Special Counsel for Immigration Related Unfair Employment Practices after careful evaluation of each proposal by a panel of specialists within DOJ. Each panelist will evaluate the proposals for acceptability with emphasis on the various factors enumerated below. The panel results are advisory in nature and not binding on the Special Counsel.

It is also anticipated that OSC will seek information from sources with particular or specialized knowledge in evaluating proposals, including the agencies that are members of the IRCA Antidiscrimination Outreach Task Force—the Department of Labor, the Equal Employment Opportunity Commission, the Small Business Administration and the Immigration and Naturalization Service.

Applicants should be aware that some states are conducting IRCA antidiscrimination outeach and education programs with funds made available under the Immigrant Nurses Relief Act of 1989, Pub. L. 101–238. Care should be taken not to unnecessarily duplicate specific efforts under those programs. OSC will take steps to coordinate these efforts and expects that, to the extent practicable, grantees will do so as well.

In determining which applications to fund, OSC will consider the following:

1. Program Design (60 points)

Proposals will be evaluated on the degree to which they reflect sound program design and innovative, cost effective strategies for dissemination of information to the targeted population. Areas that will be closely examined include the following:

a. Evidence of an in-depth knowledge of the goals and objectives of the project. (10 points)

b. The applicant's selection and definition of the target population(s) for the campaign, and the factors, including special needs, that support the selection. (15 points)

c. The design of an innovative, cost effective campaign strategy to disseminate information to members of the targeted groups, and the rationale supporting the choice of strategy. (20 points)

d. The methods proposed by the applicant to measure the effectiveness of the campaign, and how the proposed evaluation criteria will indicate to what degree the campaign succeeds in meeting its goals. (15 points)

2. Administrative Capability (15 points)

Proposals will be rated in terms of the capability of the applicant to implement the targeting, public education and evaluation components of the campaign:

a. Evidence of proven ability to provide high quality results. (10 points)

b. Evidence that the applicant can implement the campaign, and complete the evaluation component within the time lines provided. (5 points)

3. Staff Capability (15 points)

Applications will be evaluated in terms of the degree to which:

a. The duties outlined for grant-funded positions appear appropriate to the work that will be conducted under the award. (5 points)

b. The qualifications of the grant-funded positions appear to match the requirements of these positions. (10 points)

4. Previous Experience (20 points)

The applications will be evaluated on the degree to which the applicant demonstrates that it has successfully carried out programs or work of a similar nature in the past.

Eligible Applicants

This grant competition is open to not-for-profit organizations, including community-based organizations, qualified designated entities and local ethnic and immigrants' rights advocacy organizations.

Grant Period and Award Amount

The period of performance will be twelve months from the date of grant award. A total of $750,000 is available; it is anticipated that a number of grants will be awarded, ranging in size from $40,000 to $100,000.

Application Deadline

All applications must be received by the close of business (5 p.m. EDT) on August 13, 1990, at the Office of Special Counsel for Immigration Related Unfair Employment Practices, 1100 Connecticut Avenue NW., Suite 800, P.O. Box 65490, Washington, DC 20035–5490.

Application Requirements

Applicants should submit an original and two (2) copies of their completed proposal by the deadline established above. All submissions must contain the following items in the order listed below:

1. A completed and signed Federal Assistance application on the current Standard Form 424 (Revision 1988).
2. OJP Form 4061/3 (Certification Regarding Drug-Free Workplace Requirements).
3. OJP Form 4061/2 (Certification Regarding Debarment, Suspension and Other Responsibility Matters).
4. An abstract of the full proposal, not to exceed one page.
5. A program narrative of not more than twenty (20) double-spaced typed pages which include the following:

a. A clear statement which describes the approach and strategy to be utilized to complete the tasks identified in the program description;
b. A clear statement of the proposed goals and objectives, including a listing of the major events, activities, products and timetable for completion;
c. The proposed staffing plan;
d. Description of the proposed program design.
e. Description of how the project will be evaluated.

6. A proposed budget outlining all direct and indirect costs for personnel, fringe benefits, travel, equipment, supplies, subcontracts, and a short narrative justification of each budgeted line item cost. If an indirect cost rate is used in the budget, then a copy of a current fully executed agreement between the applicant and the Federal cognizant agency must accompany the budget.
7. Copies of resumes for the professional staff proposed in the budget.
8. Detailed technical materials that support or supplement the description of the proposed effort should be included in the appendix.

In order to facilitate handling, please do not use covers, binders or tabs.

Application forms may be obtained by writing or telephoning: Office of Special Counsel for Immigration Related Unfair Employment Practices, 1100 Connecticut Ave. NW., Suite 800, P.O. Box 65490, Washington, DC 20035–5490. Tels. (202) 653–8121, 1–800–255–7688 (toll-free), (202) 296–0168 (TDD for the hearing impaired), or 1–800–237–2515 (toll-free TDD for the hearing impaired.

Dated: June 19, 1990.

Approved: June 19, 1900.

Andrew M. Strojny,

Acting Special Counsel, Office of Special Counsel for Immigration, Related Unfair Employment Practices.

[FR Doc. 90–14610 Filed 6–26–90; 8:45 am]

BILLING CODE 4410–01–M

THE LIBRARY OF CONGRESS

National Film Preservation Board; Meeting

July 20, 1990, Washington, DC.

AGENCY: Library of Congress, National Film Preservation Board.

ACTION: Notice of meeting.

This notice is issued pursuant to Public Law 100–446, The National Film Preservation Act of 1988, 2 U.S.C. 178, by Dr. James H. Billington, the Librarian of Congress, to inform the public that the next meeting of the National Film Preservation Board will be held in Washington, DC in the office of the Librarian of Congress on July 20, 1990 at 1 p.m. At the request of the National Film Preservation Board, this meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT: Eric Schwartz, Counsel, The National Film Preservation Board, Library of Congress, Washington, DC 20540. Telephone (202) 707–8350.

Dated: June 21, 1990.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 90–14936 Filed 6–26–90; 8:45 am]

BILLING CODE 1410–18–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (90–43)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a forthcoming meeting of the NASA Advisory Council (NAC).

DATES: July 24, 1990, 1 p.m. to 5 p.m.; and July 25, 1990, 8:30 a.m. to Noon.

ADDRESSES: National Aeronautics and Space Administration, room 7002, Federal Office Building 6, 400 Maryland Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Sylvia D. Fries, Code ADA–2, National Aeronautics and Space Administration, Washington, DC 20546, 202/453–8766.

SUPPLEMENTARY INFORMATION: The NAC was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Dr. John L. McLucas and is composed of 21 members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, aerospace medicine, space science and applications, space systems and technology, space station, commercial programs, and history, as they relate to NASA's activities.

The meeting will be open to the public up to the seating capacity of the room, which is approximately 60 persons including Council members and other participants. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the participants. Visitors will be requested to sign a visitor's register.

Type of Meeting: Open.

Agenda:

July 24, 1990

1 p.m.—Introductory Remarks.
1:15 p.m.—NASA Education Programs.
3 p.m.—Committee and Task Force Reports.

5 p.m.—Adjourn.
July 25, 1990
8:30 a.m.—Summation and Recommendations.
Noon—Adjourn.

Dated: June 20, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-14874 Filed 6-26-90; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Proposed Information Collection Requests

AGENCY: White House Conference on Library and Information Services (WHCLIS).

ACTION: Notice of proposed information collection requests.

SUMMARY: The Executive Director, WHCLIS invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before July 15, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs. Attention: Joseph Lackey, Desk Officer, Department of Education, Office of Management and Budget, 728 Jackson Place NW., room 3208, New Executive Office Building, Washington, DC 20503.

Requests for copies of the proposed information collection requests should be addressed to Linda Resnik, White House Conference on Library and Information Services, 1111 18th Street NW., suite 302, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Frank A. Stevens, (202) 254-5100.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform statutory obligations.

The Executive Director, WHCLIS, publishes this notice containing a proposed information collection request prior to submission of this request to OMB. The proposed information collection contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) frequency of collection; (4) the affected Public; (5) reporting burden; and/or (6) recordkeeping burden; and (7) abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Linda Resnik at the address specified above.

White House Conference on Library and Information Services

Type of Review: New.
Title: Delegate certification form and instructions.
Frequency: One time.
Affected Public: Individuals.
Reporting Burden:
Responses: 912.
Burden Hours: 228.
Recordkeeping Burden:
Recordkeeping: 0.
Burden Hours: 0.
Abstract: This certification form will be used by individuals to establish their qualifications in one of the four delegate categories set forth in Public Law 100-382 and allow them participation at the White House Conference on Library and Information Services, July 9-13, 1991, in Washington, DC, as a delegate or alternate delegate.

Linda Resnik,

Executive Director for the White House Conference on Library and Information Services.

[FR Doc. 90-14860 Filed 6-26-90; 8:45 am]

BILLING CODE 3165-01-M

NATIONAL SCIENCE FOUNDATION

Committee Management; Establishment

The Assistant Director for Geosciences has determined that the establishment of the Continental Dynamics Proposal Review Panel is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) by 42 USC 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Continental Dynamics Proposal Review Panel.

Purpose: Primarily, to advise on the merit of proposals for research and research-related purposes submitted to NSF for financial support.

Balanced Membership Plan: The Panel roster will consist of about 10 members. Effort will be made to maintain a balanced membership across a number of key dimensions e.g., geographic regions, private industry, the Federal Government, and universities. First and foremost will be scientific balance across the research areas subsumed by the program. Although substantial scientific accomplishment is a prerequisite, efforts will be made to involve appropriate minority and female scientists and engineers from predominantly undergraduate institutions in the peer review process.

Responsible NSF Official: Dr. Leonard Johnson, Program Director for Continental Dynamics, Division of Earth Sciences, National Science Foundation, Room 602, 1800 G Street, NW, Washington, DC 20550. (202) 357-7355.

Dated: June 22, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-14906 Filed 6-26-90; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from June 1, 1990 through June 15, 1990. The last biweekly notice was published on June 13, 1990 (55 FR 23992).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, 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 P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 27, 1990 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. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved. 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. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. 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 Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: March 21, 1990

Description of amendment request: The amendment proposes revision of the Technical Specifications (TS) for the Emergency Diesel Generator (EDG) Fuel Oil System, TS 3/4 8.1, to allow use of a grade No. 2-D fuel oil which is less susceptible to degradation during long term storage conditions. The amendment also proposes to upgrade the EDG surveillance TS for sampling and analysis of the fuel oil to utilize improved methodologies.

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 licensees have provided the following analysis of no significant hazards considerations using the Commission's standards.

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to [the Perry Nuclear Power Plant Unit No. 1] PNPP's Technical Specifications [TS] are limited to the Emergency Diesel Generator [EDG] Fuel Oil System. The accidents evaluated in Chapter 15 of the USAR involve equipment and systems which are physically isolated from the EDG building and equipment such that the probability of occurrence of an accident evaluated previously is not affected by changes or failures of the EDG's and their associated Fuel Oil Systems. Furthermore, the safety function of the EDG's is to mitigate Chapter 15 accidents/transients which have been initiated by other causes and not to prevent the occurrence of any initiating event. Although station blackout is not currently discussed in the [Updated Safety Analysis Report] USAR, the changes described do not affect the reliability or redundancy of the onsite power supply, and therefore do not contribute to the probability of occurrence of a station blackout. Hence, these changes will not affect the probability of occurrence of an accident evaluated previously in the USAR.

This change maintains the reliability of the Emergency Diesel Generators. As discussed below for each of these changes, this amendment will have no adverse effect on the overall reliability of the onsite power supply. The response of the Emergency Diesel Generators and the onsite power supply to plant accident conditions evaluated previously is not affected by this change since function, performance, and redundancy have not been compromised. The accidents would be mitigated as evaluated previously and the consequences would be unchanged. Categorically, the response of the Emergency Diesel Generators and the onsite power supply to equipment malfunctions is not affected by this change, and the resultant consequences would be unchanged, also.

In order to preclude the diesel generator fuel oil quality problems experienced at PNPP on January 11, 1989 (LER 89-001), July 21, 1989 and March 10, 1990, these Technical Specification changes are required to accommodate the use of "straight run" fuel oil which is less susceptible to degradation during long term storage. These changes address the differences between the refiner's specification for straight run fuel oil and the site's current specifications. These changes do not negatively affect those properties of fuel oil which significantly influence EDG performance. Consequently, EDG reliability is not affected by these changes. The effect of any change in BTU/gallon of fuel oil delivered to PNPP's EDGs as a result of the proposed change in minimum allowable density has been calculated and demonstrated to be negligible and will not limit the EDGs from attaining 110% rated load. Any reduction in fuel economy as a consequence of operating with a lower density fuel oil has been compensated for by a conservative increase in the minimum fuel oil inventory required to be maintained in the fuel storage system to mitigate a design basis event with a seven day duration for all EDGs in accordance with the requirements of Regulatory Guide 1.137, Revision 1, and ANSI N195-1976. This change of fuel oil refining process will have no deleterious effects on the EDGs and will result in a significant improvement in the stability/reliability of the EDG fuel oil. Hence, the change in PNPP's fuel oil specification will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to PNPP's Technical Specification Surveillance requirements for sampling and testing of EDG fuel oil will not involve a significant increase in the probability or consequences of an accident previously evaluated in that the proposed changes involve replacing fuel oil tests currently specified with tests which are either more effective or equally effective in detecting unsatisfactory fuel oil. The proposed change involves replacing the requirement for testing stored fuel oil in accordance with ASTM D2274-70 (accelerated oxidation stability test) every 92 days with a requirement to test for actual particulate concentrations in accordance with ASTM D2276-88 every 31 days. The proposed test, ASTM D2276-88, addresses the actual condition of the fuel oil that will be pumped to the diesel generators in terms of particulate (solid) matter which could impair diesel generator operation or result in diesel generator unavailability. The current surveillance requirement, ASTM D2274-70, is oriented to predicting the tendency of fuel oil to oxidize and form particulates during long term storage. ASTM D2274-70 is not an appropriate test for determining actual particulate contamination of fuel in storage. In addition, ASTM D2274-70 test results may not accurately correlate with actual fuel condition because test results tend to vary depending on factors such as storage conditions and fuel composition. Also, the proposed ASTM D2276-88 tests would be performed every 31 days as opposed to every 92 days for ASTM D2274-70. The more frequent testing for actual particulates in the stored fuel oil would provide better data on fuel condition at the time of test as well as the tendency for formation of particulate under site storage conditions. The proposed tests would therefore be more conservative in

establishing adequacy of stored fuel than the present requirements.

The change to replace the Water and Sediment test by centrifuge on new fuel oil per the test method specified in ASTM D975-77 (ASTM D1796) with the Clear and Bright test per ASTM D4176-86 is a conservative change in that the Clear and Bright test is more sensitive in determining the presence of water and sediment in fuel oil than the Water and Sediment test by centrifuge.

Requiring performance of the Flash Point test for new fuel oil prior to adding new fuel to the storage tank to detect possible contamination of the new fuel is a conservative change. The Flash Point test provides an additional indication that new fuel oil is within specification limits. Requiring performance of the Flash Point test prior to acceptance of new fuel oil will reduce the possibility of adding "bad fuel" to the fuel oil already in storage.

Adding optional methods of verifying fuel gravity by (1) testing for Specific Gravity, and (2) by testing for either API Gravity or Specific Gravity and comparing results with the supplier's certification will not affect the reliability of the emergency diesel generators. The Specific Gravity test method is a method specifically approved by Regulatory Guide 1.137 Revision 1, and is therefore acceptable for use in determining fuel oil gravity. Testing new fuel oil prior to addition to the storage tank by either the API Gravity or Specific Gravity methods and comparing with the supplier's certification is justified in that any contamination of fuel oil during transportation would be indicated by changes in appearance, flashpoint or gravity/viscosity. Any contamination which would alter the fuel oil appearance will be detected by the Clear and Bright test discussed above. Incorrect flash point will also be detected prior to addition of new fuel to the storage tank as described above. With tests for appearance and flash point as additional indicators, a verification of fuel oil Specific or API gravity by testing and comparing to the supplier's certification will provide the necessary assurance that the new fuel is within specification limits. Since comparative gravity, as proposed, can detect contamination by a variety of petroleum products including "Jet A type" jetfuel, and since the other types of contamination are also detected by tests other than viscosity, testing for viscosity is not required if gravity is determined using this alternate method (i.e., by testing and comparing with the supplier's certification). Therefore, the proposed new fuel oil surveillance program will not adversely affect the operation of the EDGs.

Under PNPP's proposed fuel oil surveillance program, the fuel oil properties which, if not within specification, would have the most detrimental and immediate impact on diesel generator operation (water and sediment, flash point, viscosity/gravity) are checked for conformance to applicable ASTM limits immediately prior to accepting the new fuel. The remaining fuel oil properties (the "other properties" of proposed TS 4.8.1.1.2.d.2) are those which might impact diesel generator performance only on a long term basis. Therefore, the proposal to extend the time limit for obtaining test results for these remaining fuel oil properties from 14 days to 31 days would not adversely affect diesel generator reliability.

The change to remove the requirement to perform ASTM D975 testing every 92 days for fuel already in storage is based upon the rationale that the majority of fuel oil properties tested by ASTM D975 (flash point, certain number, viscosity, cloud point) do not change during storage. If these properties are within specification when the fuel oil is placed in storage, they will remain within specification unless other non-specification petroleum products are added to the storage tanks. The addition of non-specification petroleum products is precluded by PNPP's proposed new fuel oil surveillance program detailed above. Over prolonged periods, stored fuel oil can oxidize and form particulates which in significant concentrations, could impair diesel generator performance. Particulate concentrations and bacteria concentrations are the only characteristics that will change in stored fuel oil. Particulate concentrations will be monitored every 31 days in accordance with ASTE D2276-88 as discussed above. Bacteria growth is currently prevented and will continue to be prevented by periodic removal of water from the storage tanks as required by existing Technical Specifications 4.8.1.1.2.c and 4.8.1.1.2.d. Considering that the fuel oil properties will not change in storage, and that fuel oil conditions which could affect diesel generator operation will be closely monitored, further testing of stored fuel oil in accordance with ASTM D975 every 92 days will not provide any additional data nor improve diesel generator reliability.

Replacement of the Saybolt Universal Viscosity test method currently specified with the Kinematic Viscosity test method does not affect the reliability of the fuel oil or the operation of the diesel generator because the Kinematic Viscosity test method is the specified method for determination of viscosity in ASTM D975. The acceptance criteria for viscosity remains the same although expressed in units Kinematic (centistokes) rather than in units Saybolt (SUS) as currently presented.

The change to update PNPP's Technical Specification to allow use of current ASTM standards, specifically, ASTM D4057-88 in lieu of ASTM D270-75 and ASTM D975-89 in lieu of ASTM D975-77 will not affect the quality of the fuel oil or the reliability of the diesel generators in that the replacement standards are substantially equivalent to those replaced. The methods for sampling fuel oil provided in ASTM D4057-88 are equally effective as those provided in ASTM D270-75 (which has been withdrawn by ASTM). There has been no change in properties required to be tested or in acceptance criteria between the 1977 and 1989 editions of ASTM D975. While ASTM D975-89 does provide for alternative methods of testing for sulfur content (ASTM D1552, D2622 and D4294), CEI believes that the results obtained by use of the alternative methods will be equivalent to the method currently specified in D975-77 (ASTM D129).

Proposed surveillance requirements 4.8.1.1.2.d.2 and 4.8.1.1.2.e verify the quality of new fuel oil added to the storage tanks (4.8.1.1.2.d.2) and the quality of fuel oil in the storage tanks on a periodic basis (4.8.1.1.2.e). In accordance with Regulatory Guide 1.137 Revision 1, Regulatory Position C.2.a, the fuel oil may be replaced in a short period of time (about a week) when the fuel oil does not meet the specification requirements. The intent of the surveillance requirements is to ensure the fuel oil satisfies the quality specifications. Therefore, Action (j) has been added to allow up to 7 days to correct the out-of-specification condition whether this involves replacing the fuel oil or another suitable method.

Based on the above discussion of the changes being evaluated, it is evident that the previously evaluated performance capabilities of the EDGs and their associated Fuel Oil Systems have not been compromised, and will likely be improved. These changes therefore do not adversely affect the reliability of the emergency diesel generators to respond to mitigate transients/accidents.

The scope of the changes described above have no effect on the EDG Control System. These changes have no impact on the seismic or environmental qualification of equipment. This change creates no cross-ties between safety-related divisional power supplies or interconnections between Divisional Diesel Generators. Therefore, this change maintains the independence and redundancy of the onsite safety related power supply. Following approval of the proposed changes to PNPP's Technical Specification the original design requirements of the emergency diesel generator system will continue to be met, and safety related systems which require power supply from the diesel generators will be capable of performing their original design functions. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve a change in the design of any plant system or component nor do they involve a change in the operation of any plant system or component. The proposed changes do not reduce the level of diesel generator operability nor do they function as initiating events of any accident. Based on the above arguments that performance, function, and redundancy of the original design remain unchanged, this change creates no new potential for an event of such significance to be considered a design basis accident. Furthermore since no new types of equipment have been introduced and the new fuel oil will have no adverse effect on existing equipment, no potential for a different type of malfunction is created by this change.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The margin of safety as defined in the bases to Technical Specification Section 3/4-8 refers to the reliability of the onsite power supply. This proposed amendment to PNPP Technical Specifications does not adversely

affect the reliability of the onsite power supply. Nor does the proposed change affect any of the plant setpoints or margins to the accident analysis limits. The changes in the fuel oil sampling and testing requirements do not affect the capability of the diesels to perform their function. The purpose of the change is to increase the reliability of PNPP's emergency diesel generators. Hence, this change does not reduce the margin of safety of the Technical Specifications' bases.

Based on the previous discussions, the licensees 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; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensees' no significant hazards consideration determination and agrees with the licensees' analysis. The staff, therefore, proposes to determine that the licensees' request does not involve a significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: March 30, 1990

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 4.8.1.1.2.e.14.b to add a control room "pull-to-lockout" feature to the list of Division 3 Emergency Diesel Generator (EDG) lockout features requiring verification by that TS. The change will require verification that the newly installed lockout feature prevents Division 3 EDG starting only when required.

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 licensees have provided the following analysis of no significant hazards considerations using the Commission's standards.

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of occurrence of an accident previously evaluated in the Perry Nuclear Power Plant's (PNPP), Updated Safety Analysis Report (USAR) is unchanged with respect to the above described design change to PNPP's Div. 3 EDG. This change (addition of the control room switch "pull-to-lock" lockout feature) is limited in scope to the Div. 3 EDG control system which by itself cannot cause a design basis accident.

The addition of the Div. 3 EDG auto/emergency start lockout feature to prevent an auto/emergency start only when required, results in no significant increase in the probability of a malfunction within the start circuit. Compared to the original design, the modified circuit provides additional personnel safety. Prior to this design change, placing the Div. 3 EDG control switch in the "pull-to-lock" position initiated a "HPCS Out-of-Service" annunciation, but did not prevent the diesel engine from receiving an auto/emergency start signal. This change renders the control switch "pull-to-lock" position functional, corrects the misleading "HPCS Out-Of-Service" annunciation, and provides for additional personnel safety by preventing automatic engine starts when the EDG is locked out during performance of maintenance or repair work. The contacts added by this change are contained in existing safety related equipment (i.e., the engine control switch and control room panel) which is identical to other safety-related equipment comprising the emergency diesel generator start circuits. Also, the pull-to-lock feature is administratively controlled by procedure and, as described above, is annunciated as "HPCS Out of Service" in the Control Room when the Div. 3 EDG control switch is in "pull-to-lock" position. Hence, the reliability of the component added by this change is similar to that of the original design. The above arguments demonstrate that the reliability of the Div. 3 EDG, including its supporting subsystems, is not adversely affected by the design change described above. Therefore, the probability of occurrence of an accident previously evaluated is not increased as a result of this change.

This design change does not compromise the redundancy or independence of safety-related electrical divisions of emergency diesel generators within the plant. The "pull-to-lock" auto/emergency start lockout feature is designed for use only during performance of Div. 3 EDG maintenance activities where personnel safety is a concern. As described above, the "pull-to-lock" feature is administratively controlled by procedure and is annunciated as "HPCS Out-of-Service" in the control room when the Div. 3 EDG control room control switch is in the "pull-to-lock" position. These administrative controls assure that the Div. 3 EDG is not rendered inoperable by inadvertent lockout when relied upon to perform its design function. Performance of the periodic surveillance proposed by this revision to TS Surveillance Requirement 4.8.1.1.2.e.14.b will provide additional assurance that the lockout feature will operate as designed, and prevent Div. 3 diesel engine starting only when required. Thus, it is concluded that the previously evaluated levels of reliability and redundancy are maintained, and the consequences of an accident previously evaluated remain unchanged.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new possibility for an accident is created by this change as it is limited in scope to the Div. 3 EDG auto/emergency start circuit which by itself cannot cause a design basis accident. The physical installation of these contacts and their associated wiring is in accordance with the original installation requirements. This change creates no reduction of system or component performance levels compared to the original design. Since no new component type is introduced by this change, no new potentials for equipment malfunctions are introduced by this design change.

(3) The proposed change does not involve a significant reduction in the margin of safety.

The margin of safety, as defined in the bases of Technical Specification Section 3/4-8, refers to the reliability of the on-site power supplies. As demonstrated in Items 1 and 2 above, reliability of the Div. 3 EDG is not compromised by this design change. Hence, the margin of safety defined in the bases for the Technical Specification is not affected.

The staff has reviewed the licensees' no significant hazards consideration determination and agrees with the licensees' analysis. The staff, therefore, proposes to determine that the licensees' request does not involve a significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: April 16, 1990

Description of amendments request: The proposed amendments to Operating

License No. NPF-11 and Operating License No. NPF-18 would revise the LaSalle County Station Units 1 and 2 Technical Specifications (TS) to clarify the testing requirements for laboratory testing of the Standby Gas Treatment System and Control Room charcoal adsorption beds. The current TS reference is Regulatory Guide 1.52, Revision 2, March 1978. The industry standard has been revised, therefore LaSalle is proposing to amend the TS by referring to the laboratory testing protocols of the ASTM standard (D3803). LaSalle is also proposing that the acceptance criteria be modified to meet or be more conservative than Generic Letter 83-13 requirements.

This amendment request also proposes to delete references to the auxiliary electric equipment room (AEER) emergency filtration system and the control room supply recirculating charcoal filter, "odor eater." The licensee states that since the AEER is not required to be occupied for safe plant operation, except in the case of a remote shutdown, habitability requirements to the General Design Criteria (GDC 19) are not applicable to the AEER. Also, since the current calculated design basis post-accident radiological doses show that they are all within applicable regulatory criteria when the recirculating charcoal filter is not considered in the calculation it is proposed to delete references of this filter from the TS.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards consideration in this request for a license amendment. The licensee states that operation of the LaSalle County Station Units 1 and 2, in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the station currently uses ASTM D3803-79 which is referenced in ANSI N510-1980 and is the current industry standard. Although the proposed Technical Specification penetration acceptance criterion is less conservative than the present values, this will be addressed by station procedures which will increase the testing frequency as the penetration values increase.

The deletion of auxiliary electric equipment room (AEER) from the title "control room and auxiliary electric equipment room emergency filtration system" is not removing equipment but only clarifying the nomenclature.

Also analyses has shown that the control room recirculating charcoal filter is not required, therefore, removal of the references to this filter would not increase the probability or consequences of a previously evaluated event.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because these filtration systems are intended to mitigate the consequences of an accident and cannot, by themselves, initiate an accident. The licensee states that no new accidents are postulated to occur as a result of this proposal.

(3) Involve a significant reduction in the margin of safety because the proposed amendment explicitly states the acceptance criteria will help ensure that the requirements are met. Although the assumed analytical values for the charcoal bed efficiencies will still result in a dose below the units established in 10 CFR 50, Appendix A, GDC-19, the decrease in margin of safety from the relaxation of the acceptance criteria will be offset in part by the establishment of proceduralized controls. The action levels established require increased testing frequencies and actions to help ensure that the Technical Specification and the analytical limits are not exceeded.

The removal of AEER is only an editorial change so it will not reduce the margin of safety. Also, the control room recirculating charcoal filter is not addressed in the Technical Specification bases and it has been shown by analysis to be unnecessary, therefore, the removal of any references to this filter does not reduce the 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: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Acting Project Director: Richard F. Dudley.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: May 16, 1990

Description of amendments request: The proposed amendment to Operating License No. NPF-11 and Operating License No. NPF-18 would revise the LaSalle County Station, Units 1 and 2 Technical Specifications (TS) to revise the "single largest load reject" test value discrepancy between the TS and the UFSAR by using the more conservative UFSAR valve. Also, to clarify the requirements for the automatic bypassing of the diesel generator trips on an ECCS actuation signal for Division 3 the licensee is proposing to reword the requirement so that it is consistent with the LaSalle Station design and the Branch Technical Position BTP ISCB-17 and Position 7 of the Regulatory Guide 1.9.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards consideration in this request for a license amendment. The licensee states that operation of the LaSalle County Station, Units 1 and 2, in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because it will ensure that the technical specification load reject test valve is equal to or greater than the maximum load requirement for the HPCS pump which is the single largest Division 3 load. This enhancement will help to assure the reliability and availability to the ESF Division 3 diesel generators under all operating conditions. Also, this

amendment clarifies the intent of the technical specification requirements and does not involve any changes to the operation of the facility as described in the UFSAR.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposal does not involve any modifications to the facility or changes to the operation of the facility as described in the UFSAR, therefore, it cannot create the possibility of a new or different kind of accident.

(3) Involve a significant reduction in the margin of safety because the change raises the Division 3 test load requirement for initiation of the "single largest load reject" surveillance test to the more conservative UFSAR value. This change does not alter the technical specification acceptance criteria for the test. Also this proposed amendment is an administrative change which does not modify the intent of the technical specification, therefore, the margin of safety is not decreased.

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: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Acting Project Director: Richard F. Dudley.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendments: May 23, 1990

Description of amendments request: The proposed amendments would add the Technical Specifications for some of the accident monitoring instrumentation covered by NUREG-0737, Regulatory Guide 1.97 and Generic Letter 83-37. The following instrumentation will be added in the Technical Specifications for Zion: Core Exit Thermocouples, Containment Water Level Wide Range, Containment Water Level Narrow Range, Reactor Coolant Inventory Tracking System, and Condensate Storage Tank Level. In addition, the amendments will make some administrative changes and revise a few other Technical Specifications to make them consistent with the guidance provided by the staff.

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. A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92. The proposed changes have been broken down into five distinct categories, based on the changes made. The licensee provided the following discussion regarding all of these changes.

[A] ADMINISTRATIVE CHANGES

The following changes have been categorized as administrative in nature. These changes do not involve a change in intent, requirement or regulation. As such, this No Significant Hazards Considerations will address these items:

- Page number changes and additions,
- Title changes relocations, and additions,
- Location and wording of notes associated with the PORVs and PORV Block Valves,
- Clarified proper mode to eliminate ambiguity
- Changes in terminology,
- Generation of new table to be used for reference purposes,
- Addition of notes clarifying current exemptions to performing periodic surveillances,
- Changes providing reference to base documents and revision numbers,
- Deletion of surveillance frequency notation addressed appropriately elsewhere in the Technical Specifications,
- Reformating of pages,
- Equipment identification changes that are typographical in nature, and
- Inclusion of reporting requirements into the administrative section of the Technical Specifications, required to be performed under an action statement.

The proposed changes do not result in a significant increase in the probability or consequences of accidents previously evaluated. The proposed changes to the Technical Specification listed above have been determined to be administrative in nature. The proposed amendment to the Technical Specifications does not change or alter any current operator actions, or requirements for the mitigation of any previously evaluated accident. These changes have no impact on assumed margins or actions during an evaluated accident. Plant response to previously evaluated accidents will not be altered as a result of these changes. As such, the probability and consequences associated with evaluated accidents have remained unchanged.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. These proposed changes will not impose or result in plant operation that differ from any existing requirements. No new equipment is being introduced as a result of these changes. As such, the possibility of a new or different kind of accident from any accident previously evaluated will not occur as a result of these changes.

The proposed changes do not involve a significant reduction in a margin of safety. These changes do not alter the manner in which equipment required for safe operation of the plant is operated. There are no setpoint, or operational limitations being altered or changed as a result of these revisions. As such, these changes have no significant effect on the margin of safety.

[B] ADDITION OR CHANGES OF INSTRUMENTATION

The following changes involve the addition of instrumentation as a result of the guidance given in, Generic Letter 83-37 regarding "NUREG 0737 Technical Specifications", and NRC Memorandum D.M. Crutchfield to T.M. Novak regarding relief and safety valve position indication. In addition, instrumentation has been added and/or changed to assure that all Type A variables are addressed, and reference the appropriate qualified instrumentation. As such, this No Significant Hazards Considerations will address the following items:

- Containment Pressure (Wide Range) changing from narrow range to wide range. In addition, the total number of instrument channels has been changed from 4 to 2 to address the appropriate number of qualified instruments,
- Changing of the Pressurizer Safety Valve Position Indicator to include both a Technical Specification for the primary and the backup indicators,
- Revision of the RCS Subcooling Monitor, to delete previously approved manual calculations in lieu of utilization of installed instrumentation, and
- The addition of the following instrumentation into the Technical Specifications:

Core Exit Thermocouples, Containment Water Level Wide Range, Containment Water Level Narrow Range, Reactor Coolant Inventory Tracking System, and Condensate Storage Tank Level.

The proposed change does not result in a significant increase in the probability or consequences of accidents previously evaluated. The purpose of the Accident Monitoring Instrumentation is to provide sufficient information to perform required manual actions, and to monitor and assess plant status and behavior during and following an accident. The instrumentation referenced in the Technical Specifications to perform these functions must be capable of providing this information under assumed accident conditions. Therefore, there must both be an adequate number of parameters monitored, and these parameters must be monitored by appropriately qualified

instrumentation. The probability for an evaluated accident is independent of the number and type of instruments designated for monitoring purposes. The probability for an accident is linked to the precursor events leading to an accident. None of the accident monitoring instrument changes addressed here are linked in any fashion to these precursor events.

As such, the probability for previously evaluated events have remained unchanged. The consequences of evaluated events are lessened by assuring that the minimum number of parameters required to perform required manual actions, and monitor and assess plant status following an accident are available.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes will not approve or result in plant operation that could create a new or different kind of accident. The addition of these instruments to the technical specifications will provide assurance in regards to their availability, through the establishment of Limiting Conditions for Operation, Remedial Actions, and appropriate Surveillance Requirements. The accident monitoring instrumentation is directly tied to accident mitigation, through the accomplishment of manual actions and assessment. Through proper decision making the possibility of different type of accident or accident conditions propagating in a differing manner will be prevented.

The proposed change does not involve a significant reduction in a margin of safety. The inclusion of these instruments into the Technical Specification will provide assurance that an adequate number of the appropriate instruments are available to monitor required plant parameters in the event of an accident. By referencing instrumentation that is appropriately qualified for the expected condition, assurance is gained that these parameters will be available if required. By reducing the total number of channels for the Containment Wide Range Pressure Instruments from 4 to 2 the appropriately qualified instruments are reference. However, the margin of safety has remained unchanged by virtue of the required number of channels remaining the same. For the instrumentation being added, these changes will enhance the safety of the plant through the establishment of minimum acceptable levels of performance and availability for these instruments in the Technical Specifications. Through the establishment of these minimum levels, information required for appropriate decision making during and following an accident can be assured. Surveillance requirements are being specified for the purpose of determining operability. The remedial actions associated with the added Specifications will require the plant to be placed into a shutdown condition, after providing an appropriate time frame to restore the inoperable instrument(s) to operable status. As such, these proposed changes to the Technical Specifications will result in an increase in the current margin of safety.

[C] ACTION AND PROGRAMATIC CHANGES

The following assessment involves the revision of the action statements associated with the accident radiation monitoring instruments. This assessment also addresses the addition of programatic control to assure these monitoring capabilities. As such, this No Significant Hazards Considerations will address the following items:

- Addition of action statement 4 regarding the actions associated with the Steam Generator Atmospheric Relief and Safety Valve Radiation Monitors, and the Vent Stack Noble Gas Radiation Monitors,
- Addition of action statement 31 regarding the actions associated with the Containment High Range Radiation Monitors, and
- The addition of the requirement to have Post Accident sampling programs capable of obtaining and analyzing reactor coolant and containment atmosphere, and collect and analyze or measure radioactive iodines and particulates in plant gaseous effluents samples under accident conditions.

The proposed changes do not result in a significant increase in the probability or consequences of accidents previously evaluated. The radiation monitor action statement changes and programs being added to the administrative section of the Technical Specifications of themselves have no impact on the probability of any events that are inputs to evaluated accidents. As such, the probability for evaluated events has remained the same. The changes made are providing assurance to the availability of these monitors or alternative methods of providing comparable information during and following an accident. Through assuring the availability of these parameters and programs, the consequences of evaluated accidents remain the same.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes address the revisions to programs and action statements. There is no new equipment being proposed for installation that could present the possibility for a new or different type of accident, as a result of these changes. Plant operations will not be altered in any fashion that could create the possibility for a new or different type of accident. Through assuring the availability of these parameters during an accident, proper decision making can be assured. As such, these changes will not create the possibility for a new or different type of accident. In addition, the potential for accident conditions propagating in a differing manner will be prevented.

The proposed change does not involve a significant reduction in a margin of safety. The proposed actions will result in the establishment of alternate methods of monitoring the effluent release paths for the Steam Generator Atmospheric Relief and Safety Valves, and Vent Stack within 72 hour instead of 30 days as addressed in the current Technical Specifications. The reduction in these time frames will provide for an increase in the readiness to monitor these parameters in the unlikely event of an accident. The administrative changes being added to the Technical Specifications involve the addition of the requirements to have Post Accident sampling programs capable of obtaining and analyzing reactor coolant and containment atmosphere, and collect and analyze or measure radioactive iodines and particulates in plant gaseous effluents samples under accident conditions. These programs include; the training of personnel, procedures for sampling and analysis, and provisions for maintenance of sampling and analysis equipment. These changes provide assurance that these capabilities and programs will be established and maintained. The results of these changes are viewed as an improvement in the plants overall ability to assess accident conditions, and the potential for or quantification of releases. As such these changes do not result in a significant reduction in the margin of safety.

[D] CHANGES TO REQUIRED NUMBER OF INSTRUMENTS

The following assessment involves changes to the required number of instruments, and parameters that must be monitored. As such, this No Significant Hazards Considerations will address the following items:

- Changes to the required and minimum operable number of instruments for the Steam Generator Wide Range Level indicators,
- Changes to the required and minimum operable number of instruments for the Auxiliary Feedwater Flow Rate Monitoring instruments,
- The deletion the PZR PORV acoustic monitors form the Technical Specifications, and
- Revision of the PZR PORV Block Valve Position Indicator, increasing the minimum operable channels from 0 to 1.

The proposed changes do not result in a significant increase in the probability or consequences of accidents previously evaluated. The above noted instruments provide monitoring capabilities of parameters important for the proper assessment of plant status. These proposed changes are not linked to increasing the probability of any accident. These changes do not alter any of the assumed initial conditions for evaluated accidents at the Zion Station. As such the probability for an evaluated accident has remained unchanged. The consequence of evaluated accidents will remain the same. In the case of the Steam Generator Wide Range Level, and the Auxiliary Feedwater Flow monitoring instruments, the required number of instruments have become more restrictive. For the PZR PORV Block Valve Position Indicator, the minimum operable number has become more restrictive. The proposed change will relax the minimum operable number of channels required for the Steam Generator Wide Range Level and Auxiliary Feedwater Flow Monitoring instruments based on the more restrictive limits imposed on the required number of channels. In addition, the Steam Generator Narrow Range Level instruments provide redundant indication of heat sink status for both the Steam Generator Wide Range Level instruments, and the Auxiliary Feedwater Flow Rate instruments. As such, there is redundancy available for monitoring these parameters. The Steam Generator Narrow Range Level instruments have a required number of 2, and a minimum number of 1,

and are powered from redundant safety related power supplies. In this fashion, it can be shown that there is sufficient redundancy available to justify a 7 day action statement alone for the Steam Generator Wide Range Level and Auxiliary Feedwater Flow Rate instruments. In reference to the PORV position indicator, the safety related limit switch position indicators will still be retained in the Technical Specifications.

These indicators on their own are sufficient to provide valve status indication in the Control Room. In this fashion, the consequences of previously evaluated accidents will remain unchanged. Based on the diversity available for monitoring the parameter associated with the Steam Generator Wide Range Level and the Auxiliary Feedwater Flow Rate indicator, in addition to the safety related limit switches associated with the PZR PORV Position indication, sufficient monitoring capability will be maintained. As such, the consequences of evaluated events will remain the same through the assurance that the minimum number of parameters required to perform required manual actions, and monitor and assess plant status following an accident are available.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes will not impose or result in plant operation that will challenge the integrity of any fission product barriers. Post accident monitoring instrumentation is directly tied to accident mitigation in regards to assessment and decision making process. The number and type of instruments specified in the Technical Specifications, of [their] own will not result in the possibility of a different type of accident. All of these items as proposed, will still have adequate indication available through either safety related or diverse indication. Through the assurance that the required parameters necessary for appropriate decision making during and following an accident are available, it can be determined that the possibility of a different type of accident or an accident conditions propagating in a differing manner will be prevented.

The proposed change does not involve a significant reduction in a margin of safety. These changes will enhance the safety of the plant through the establishment of more restrictive minimum acceptable levels of performance and availability for the Steam Generator Wide Range Level and Auxiliary Feedwater Flow Rate instruments in the Technical Specifications. The current Technical Specifications do not invoke any required remedial actions until at least 3 instruments fail. In the event of 3 failures, a 7 day action statement would be entered. In the event of all 4 instruments failing, a 48 hour action statement time clock is entered. The proposed changes would invoke a 7 day time clock based on a single failure, and the 48 hour time clock would be eliminated. The Steam Generator Narrow Range Level instruments provide redundant indication of heat sink status for both the Steam Generator Wide Range Level instruments, and the Auxiliary Feedwater Flow Rate instruments. As such, there is redundancy available for monitoring these parameters. The Steam Generator Narrow Range Level instruments have a required number of 2, and a minimum number of 1. In this fashion, it can be shown that there is sufficient redundancy available to justify a 7 day action statement alone for the Steam Generator Wide Range Level and Auxiliary Feedwater Flow Rate instruments.

Based on the diversity available for monitoring this parameter, it can be concluded that sufficient monitoring capability will be maintained. As such based on the redundancy in indication and the lower threshold for action statement entry, it has been concluded that the overall margin of safety has been enhanced. In regards to the PZR PORV Valve Position Indicators, valve position indication will be available from the safety related limit switches associated with these valves. Based on the current Technical Specifications, operations could continue for a period of 7 days based on the inoperability of either a stem mounted limit switch, or an acoustical monitor. If both of these indicators were inoperable, operations could continue for a period of time not to exceed 48 hours. If, the required number of channels or minimum operable channels are not restored within these time frames, the unit will be placed in Mode 4 within the next 12 hours. The proposed changes will allow operations to continued for a period of time not to exceed 48 hours based on the inoperability of the stem mounted limit switch alone. If, the required number of channels (same as the minimum operable number) are not restored within this time frame the unit will be placed in Mode 4 within the next 12 hours. In the event that the acoustical monitor is inoperable, the actions required will remain[ed] the same. As such, it can be concluded that the restoration time frame for an inoperable limit switch is the same in the proposed change, is the same as the current Technical Specifications assuming loss of the acoustical monitor. Regarding the PZR PORV Block Valve Position Indicators, valve position indication will be available from the safety related limit switches associated with these valves. Based on the current Technical Specifications, operations could continue for a period of 7 days based on the inoperability of a stem mounted limit switch. If, the required number of channels [channels] is not restored within this time frame the unit will be placed in Mode 4 within the next 12 hours. The proposed changes will allow operations to continued for a period of time not to exceed 48 hours based on the inoperability of the stem mounted limit switch. If the required number of channels (same as the minimum operable number) are not restored within this time frame, the unit will be placed in Mode 4 within the next 12 hours. In this fashion, the margin of safety will remain the same.

[E] MODE OF APPLICABILITY CHANGE

The following No Significant Hazards Considerations addresses the addition of Mode 7 as a required mode for the accident monitoring instrumentation.

The Mode of Applicability for Specification 3.8.9, Accident Monitoring Instrumentation has been revised to include Mode 7. Generic Letter 83-37 was written to address the Modes of Applicability as defined in the Standardized Technical Specifications. Mode 7 in the Zion Station Technical Specifications is defined as; less than or equal to 5% power with reactivity and temperature stated per the specific test. This mode is synonymous with Mode 2, incorporating specified tests from the Special Test Exemptions in the Standard Technical Specifications. This change will require the Accident Monitoring Instruments to be operable in Modes 1, 2, 3, and 7.

The proposed change does not result in a significant increase in the probability or consequences of accidents previously evaluated. Mode 7 at the Zion Station is Low Power Physics Testing. Low Power Physic Testing involves operation at power levels not to exceed 5% of rated thermal power. In order to establish these conditions, the plant must transition Mode 3. In transitioning Mode 3 the plant is in a condition where the accident monitoring instruments are required to be operable. The probability for a previously evaluated accident has remained unchanged. The addition of this mode has no effect on an events or conditions that are precursors to any evaluated accidents. By assuring the operability of these instruments, in all appropriate modes, the consequences of previously evaluated accidents will remain the same.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not approve or result in the installation of new equipment. The proposed changes will not impose or result in plant operation that will deviate from current practices. In order to establish Mode 7, the plant must first enter Mode 3. The Accident Monitoring Instruments are currently required operable in Mode 3. As such, this change does not result in operations different from current. As such, the proposed change will not create the possibility for a new or different kind of accident from those previously evaluated.

The proposed change does not involve a significant reduction in a margin of safety. This proposed change will result in the accident monitoring instruments specified in table 3.8.9, being required to be operable in Mode 7. The inclusion of this mode provides assurance that these instruments would be maintained operable during low power physics testing. As such, the margin of safety will not be significantly reduced.

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; and 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: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Acting Project Director: Richard F. Dudley

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: August 4, 1988 as supplemented August 18, 1989

Description of amendment request: Amend the Technical Specification to include Single Recirculation Loop operation at Fermi-2.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility in accordance with 10 CFR 50.92(c) 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 evaluated the proposed change against the requirements of 10 CFR 50.92 and has determined the following:

1. The changes act to prohibit operations which have been found to carry a significant potential for the formation of core thermal-hydraulic instabilities. As such, operation in compliance with the proposed provisions does not affect any initiating mechanism for previously evaluated accidents or the response of the plant to a previously evaluated accident. The ACTION requirements are those which effectively terminate the potential for thermal-hydraulic instability. The ACTIONS taken lead to placing the plant in a safer condition and are not themselves associated with an initiating factor for a previously evaluated accident. Therefore, the change does not represent a significant increase in the probability or consequences of any previously evaluated accident.

2. As discussed in 1 above, the change acts to restrict operations previously allowed. The change also provides remedial ACTIONs which act to place the plant in a safer condition. The ACTIONs called for are within the analyzed domain of plant operations. As such, the change does not create any new accident mode or involve any modification in the plant design. Therefore, the change does not create the possibility of a new or different kind of accident.

3. The changes act to increase the margin of safety by prohibiting operations with a significant potential for core thermal-hydraulic instability and providing effective remedial ACTIONs which promptly terminate the potential for instability.

On the basis of the above consideration, the staff proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: Robert C. Pierson

Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: April 23, 1990

Description of amendment request: The proposed amendments would modify Table 3.3-5, Engineered Safety Features Response Times and Table 3.6-1, Containment Penetrations, and would delete Specification 3/4.6.5, Subatmospheric Pressure Control System. The proposed amendments would modify certain engineered safety features response times for operational simplification and clarity, eliminate a redundant specification, improve consistency within the Technical Specifications (TSs) and between the TSs and the Updated Final Safety Analysis Report, incorporate the results of previously reviewed modifications, and add, modify, or delete for clarity or consistency certain notations to Table 3.6-1.

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(c), 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 Commission has evaluated the proposed changes against the above standards as required by 10 CFR 50.91(a) and has concluded that:

A. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because no facility operating limits are affected. The proposed changes merely correct, clarify, or improve consistency of the TSs, and are administrative in nature.

B. The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the proposed changes do not introduce a new mode of facility operation or involve any physical modification to equipment or features affecting the operational characteristics of the facility.

C. The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the proposed changes do not affect any facility operating limits, the manner by which the facility is operated, or involve equipment or features which affect the operational characteristics of the facility.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: March 23, 1990

Description of amendment request: Requests extension of the unit operating license to April 19, 2014 to reflect a 40 year period from issuance of the full-power license.

Basis for proposed no significant hazards consideration determination: GPU Nuclear Corporation has requested extension of the expiration date for Three Mile Island Unit 1 operating license from the present date of May 18, 2008, to April 19, 2014. The current expiration date is based upon the construction permit (CP) issuance date of May 18, 1968. At the time the full-power operating license (OL) was issued on April 19, 1974, it was NRC practice to specify an expiration date of 40 years from CP issuance. This resulted in an effective OL duration of 34 years. NRC regulations (10 CFR 50.51) specifies that such licenses be issued for a period of time not to exceed 40 years. It has been the NRC's practice for the past several years to extend these licenses, if requested and justified by the licensee, to a full 40 years of duration. GPU Nuclear Corporation has provided such

a request on the basis that the plant was designed for a 40-year operating lifetime and the environmental assessment supporting the license assumed 40 years of plant operation.

GPU Nuclear Corporation has determined that this proposed extension of the OL expiration date poses no significant hazards considerations as defined in 10 CFR 50.92. That determination was as follows:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated. The proposed revision to the Facility Operating License does not affect the safety analysis and does not involve any physical changes to the plant, nor any changes in the format or restraints on plant operations, and only contemplates a change to the expiration date of the current license. Therefore, this change is unrelated to the possibility of increasing the consequences of previously analyzed accidents. This change will not increase the probability of previously analyzed accidents because the plant is designed and constructed for 40 years of operation.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any previously evaluated. The proposed revision to the Facility Operating License does not affect the safety analysis and does not involve any physical changes to the plant, nor any changes in the format or restraints on plant operations, and only contemplates a change to the expiration date of the current license. The plant is designed and constructed for 40 years of operation. Therefore, this change has no effect on the possibility of creating a new or different kind of accident from any previously evaluated.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. The proposed revision to the Facility Operating License does not involve any physical changes to the plant, nor any changes in the format or restraints on plant operations, and only contemplates a change to the expiration date of the current license. The safety analyses described in the FSAR are based on a 40-year operating life. Therefore, the overall margin of safety for the plant is maintained.

The NRC staff has reviewed the GPU Nuclear Corporation determination and agrees with their analysis. Accordingly, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: May 14, 1990

Description of amendment request: The proposed amendment would modify the "Minimum Temperature vs. Reactor Pressure Curves" contained in Section 3/4.4.6 of the Technical Specifications (TS) and the associated Bases. Generic Letter 88-11, "NRC Position on Radiation Embrittlement of Reactor Vessel Materials and Its Impact on Plant Operations," dated July 12, 1988, informed all licensees that the methods described in Revision 2 to Regulatory Guide 1.99 should be used to predict the effect of neutron radiation on reactor vessel materials as required by Paragraph V.A. of Appendix G to 10 CFR Part 50, unless the use of other methods can be justified. The May 14, 1990, amendment request is in response to Generic Letter 88-11. The proposed changes to the TSs are divided into two basic areas: (1) pressure-temperature curves, and (2) neutron fluence as a function of service life.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

Operation of RBS [River Bend Station] in accordance with the changes proposed in this amendment involves no significant hazards based upon the evaluations given below.

a. Changes made through this request are in accordance with the applicable design, material, and construction standards. These revisions are the result of changes in calculational methodology for shift in nil-ductility transition reference temperature promulgated by issuance of Revision 2 of Regulatory Guide 1.99. The changes, recognizing the use of revised and slightly less conservative lead factors, result in more conservative limits for temperature and pressure for all operational conditions (hydrostatic and leak testing, non-nuclear heatup/cooldown and low level physics testing, and core critical operations). Consequently, no significant increase in the probability or the consequences of an accident previously evaluated results from these changes.

b. No structures, systems, or components are added or deleted by these changes; thus the possibility of additional single failures resulting in a new or different kind of accident from that previously evaluated is not introduced as a result of these changes. The changes provide more conservative limits for temperature and pressure at higher system pressures and no limits are removed or made less conservative. Therefore, these changes would not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. A larger shift in RT-NDT results from application of the Regulatory Guide 1.99, Rev. 2 methodology. Consequently, the revised pressure-temperature curves to be used for RBS Tech. Spec. 3/4.4.6 are more conservative. Thus, additional margin is provided to assure that when the reactor pressure vessel is stressed under operating, maintenance, testing and postulated accident conditions, the reactor coolant pressure boundary behaves in a nonbrittle manner and the probability of rapidly propagating fracture is minimized. Therefore, these changes would not involve a significant reduction in margin of safety.

The proposed amendment will not increase the possibility or the consequences of a previously evaluated event and will not [create] a new or different kind of accident from any previously evaluated. Also, the results of this proposed change are clearly within all acceptance criteria with respect to system components and design requirements. The ability of the reactor pressure vessel to perform as described in the USAR is maintained and therefore, the proposed change does not involve a significant reduction in margin of safety... GSU proposes that no significant hazards are involved for these changes.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Mark Wetterhahn, Esq., Bishop, Cook, Purcell and Reynolds, 1401 L Street, NW., Washington, DC 20005

NRC Project Director: Christopher I. Grimes

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: June 6, 1990

Description of amendment request: The proposed amendment would add an additional smoke detector to Technical

Specification Table 3/4.3.7.8-1 due to the proposed addition of a suspended ceiling to the control rod drive maintenance rebuild facility.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

1. The change made in this request is in accordance with the applicable design, material, and construction standards and regulatory requirements. The revision is the result of adding an additional fire detector below the planned suspended ceiling in a room which presently has one fire detector located in the ceiling of that room. The change results in more conservative limits (two detectors required as opposed to one) for fire detection in this room. Consequently, no significant increase in the probability or the consequences of an accident previously evaluated results from this change.

2. Since this change simply adds an additional detector (identical in all respects to the existing detector) below a planned suspended ceiling in a room which presently has a detector located in the ceiling of that room, the possibility of a new or different kind of accident from that previously evaluated is not introduced as a result of this change. This change provides more conservative limits for fire detection and no limits are removed or made less conservative. Therefore, this change would not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The larger number of fire detectors in the same area equates to each detector protecting an area with less volume. Consequently, the revised number of detectors to be used for RBS TS 3/4.3.7.8 is more conservative. Thus, additional margin is provided to assure that when a fire does occur, it will be detected early. Therefore, this change would not involve a significant reduction in margin of safety.

The proposed amendment will not increase the possibility or the consequences of a previously evaluated event and will not create a new or different kind of accident from any previously evaluated. Also, this proposed change is clearly within all acceptance criteria with respect to system components and design requirements. The ability of the fire detection system to perform as described in the USAR is maintained and therefore, the proposed change does not involve a significant reduction in margin of safety. GSU proposes that no significant hazards are involved for these changes. The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a signficant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Mark Wetterhahn, Esq., Bishop, Cook, Purcell and Reynolds, 1401 L Street, NW., Washington, DC 20005

NRC Project Director: Christopher I. Grimes

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: April 25, 1990

Description of amendment request: As stated in the Bases for Technical Specification 3/4.7.4, snubbers are required to be operable to ensure that the structural integrity of the reactor coolant system and all other safety-related systems is maintained during and following a seismic or other event initiating dynamic loads.

Surveillance Requirements 4.7.4.e, f, g and h provide requirements for functional testing of snubbers. The specified functional testing sample plans require a random sample of each type of snubber to be functionally tested during each reactor shutdown. If failures are experienced, additional samples must be functionally tested. This proposed change would revise the subsequent additional sample size for functional testing required by Surveillance Requirement 4.7.4.e, Sample Plan 1, from 10% to 5%.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazard consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards consideration using the Commission's standards:

(1) The proposed change to the subsequent additional functional test sample size for Surveillance Requirement 4.7.4.e, Sample Plan 1, provides an equal basis for all three specified sample plans. This proposed change is consistent with the ASME OM-4 Standard which has been incorporated into the 1989 Edition of the ASME Code, Section XI. Additionally, if a failure to lock up or move is determined to be caused by manufacturer or design deficiency, functional testing of all snubbers of the same type that may be subject to the same defect will continue to be required by Surveillance Requirement 4.7.4.g, irrespective of the subsequent additional sample size. Therefore, these proposed changes will not significantly increase the probability or the consequences of any accident previously evaluated.

(2) These proposed changes do not result in any change to the plant or its operation. The scope of snubbers to be functionally tested per these surveillance requirements has not been reduced. Therefore, these proposed changes cannot create the possibility of a new or different kind of accident than previously evaluated.

(3) The proposed change to the subsequent additional functional test sample size for Surveillance Requirement 4.7.4.e, Sample Plan 1, provides an equal basis for all three specified sample plans. This proposed change is consistent with the ASME OM-4 Standard which has been incorporated into the 1989 Edition of the ASME Code, Section XI. Additionally, if a failure to lock up or move is determined to be caused by manufacturer or design deficiency, functional testing of all snubbers of the same type that may be subject to the same defect will continue to be required by Surveillance Requirement 4.7.4.g, irrespective of the subsequent additional sample size. Therefore, this proposed change will not result in a significant reduction in the margin of safety.

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, and does not involve a reduction in the 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 requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200

Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John N. Hannon

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: April 25, 1990

Description of amendment request: The telescoping mast currently installed on the Clinton Power Station Refuel Platform main hoist consists of three open frame type triangular sections. In order to reduce the possibility of grappling the wrong fuel bundle as a result of mast bowing and to reduce the potential for contamination of the operators due to water dripping from the open frame mast, the current mast will be replaced with a solid cylindrical telescoping mast. As a result of the additional weight of the new mast, the main hoist overload cutoff setpoint and both of the main hoist loaded interlock setpoints specified in Technical Specification 3/4.9.6.1, Refueling Platform, must be revised. The licensee therefore proposes to change the main hoist overload cutoff setpoint specified in Surveillance Requirement 4.9.6.1.a from 1200 27 50 pounds to 1600 27 50 pounds and the main hoist loaded interlock setpoints specified in Surveillance Requirement 4.9.6.1.f from 485 27 50 pounds end in Surveillance Requirement 4.9.6.1.h from 550 27 50 pounds to 700 27 50 pounds (for both).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazard consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards consideration using the Commission's standards:

(1) As discussed in Updated Safety Analysis Report Section 15.7.4, a Fuel Handling Accident (FHA) is postulated to occur as a consequence of a failure of the fuel assembly lifting mechanism which results in the dropping of a raised fuel assembly onto fuel bundles either loaded in the core or stored in spent fuel storage racks. In Chapter 15 of the USAR, two different FHAs are considered: (1) a postulated FHA in the containment in which a fuel bundle is dropped onto irradiated fuel loaded in the core, and (2) a postulated FHA in the fuel building in which the bundle is dropped onto irradiated fuel stored in the spent fuel storage racks. As documented in the USAR, the postulated fuel building FHA results in higher offsite radiological releases than the postulated containment FHA. However, because the NF500 refueling mast will not be used in the fuel building, the current fuel building FHA analysis is not changed.

This proposed change does not result in a change to any of the assumptions of the postulated containment FHA. The refueling platform main hoist incorporates redundant lifting features (e.g., dual cables) so that no single component failure will result in a fuel bundle drop. The design of the grapple is not being changed as a result of this proposed change. The new mast is similar in design and function to the currently installed mast. The new mast is designed to match or exceed all aspects of the currently installed mast. Additionally, interlocks on the platform prevent unsafe operation over the reactor vessel during control rod movements, prevent collision with the auxiliary platform, limit travel of the fuel grapple, and interlock grapple hook engagement with hoist power. The proposed main hoist overload cutoff setpoint will still ensure that excessive lifting forces are not applied to a fuel bundle and the proposed main hoist loaded setpoints will still ensure that the associated interlocks are initiated when the weight of a channeled fuel bundle is applied to the grapple. Further, the maximum height from which a fuel bundle could be dropped remains unchanged as does the minimum required water level above stored irradiated fuel. Therefore, the proposed change will not increase the probability or the consequences of any accident previously evaluated.

(2) No new failure modes will be introduced as a result of this proposed change. The new mast is similar in design and function to the currently installed mast. The new mast is designed to match or exceed all aspects of the currently installed mast. Additionally, the design of the grapple is not being changed as a result of this proposed change. The proposed main hoist overload cutoff setpoint will still ensure that excessive lifting forces are not applied to a fuel bundle and the proposed main hoist loaded setpoints will still ensure that the associated interlocks are initiated when the weight of a channeled fuel bundle is applied to the grapple. Therefore, this proposed change cannot create a new or different kind of accident from any accident previously evaluated.

(3) The proposed main hoist overload cutoff and main hoist loaded interlock setpoints merely account for the increased weight of the mast. The proposed main hoist overload cutoff setpoint of 1600 27 50 pounds still ensures that excessive lifting forces are not applied to a fuel bundle. The proposed main hoist loaded interlock setpoints of 700 27 50 pounds still ensure that the associated interlocks are initiated when the weight of a channeled fuel bundle is applied to the grapple. As a result, there is no significant reduction in the margin of safety.

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, and does not involve a reduction in the 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 requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John N. Hannon

Indiana Michigan Power Company, Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: September 15, 1988

Description of amendments request: These amendments would remove references to obsolete surveillance interval extensions from the plant Technical Specifications (TS). These references are no longer required and their removal would make the TS more readable.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not:

(i) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(ii) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendments against the standards of 10 CFR 50.92 and has determined the following:

Criterion 1

The changes are administrative in nature. No requirements of the present T/Ss are eliminated or reduced. The changes are intended only to streamline the T/Ss by eliminating numerous footnotes which tend to clutter the document. As such, the changes are not expected to involve a significant increase in the probability or consequences of a previously analyzed accident.

Criterion 2

The changes will not result in a change in plant configuration or operation. Therefore, these changes are not expected to create the possibility of a new or different kind of accident from any previously analyzed or evaluated.

Criterion 3

The changes are administrative in nature. No requirements of the present T/Ss are eliminated or reduced. The changes are intended only to streamline the T/Ss by eliminating numerous footnotes which tend to clutter the document. As such, the changes are not expected to involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards analysis and concurs with the licensee's conclusions. Therefore, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Robert Pierson.

Indiana Michigan Power Company, Docket No. 50-315, Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, Michigan

Date of amendment request: May 11, 1990

Description of amendment request: The proposed amendment would change Technical Specification (TS) Table 3.3-2, "Reactor Trip System Response Times," by changing the required response time for the reactor trip on loss of flow from less than or equal to 0.6 seconds to less than or equal to 1.0 seconds. This change is consistent with the Unit 1 accident analysis.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not:

(i) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(ii) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92 and has determined the following:

Criterion 1

The change from a response time of 0.6 seconds to 1.0 seconds for the loss of flow reactor trips is consistent with the assumptions of the current accident analyses, as approved by the NRC via Amendment 126 to the Unit 1 T/Ss. The accident analyses demonstrated acceptable DNBR and reactor coolant system pressurization results for the applicable accidents. It can be reasonably concluded, therefore, that the change will not involve a signifcant increase in the consequences of a previously analyzed accident. The proposed T/S change will not require any physical modifications to the plant not any changes in plant operating configuration. The required time response of the loss-of-flow trips is a factor in the results of the appropriate accident analyses, but is not an initiating event. Therefore, we believe the change will not involve a significant increase in the probability of a previously analyzed accident.

Criterion 2

As discussed in Criterion 1, above, the proposed T/S change involves no physical changes to the plant nor any changes in plant operating configuration. Therefore, we believe the change will not create the possibility of a new or different kind of accident from any previously analyzed or evaluated.

Criterion 3

The proposed change is consistent with the assumptions of the current accident analyses. (These analyses were approved via Amendment 126 to our Unit 1 license and will be incorporated into our next annual FSAR update.) These analyses demonstrated acceptable DNBR and reactor coolant system pressurization results, and were approved by the NRC in support of Amendment 126 to the Unit 1 T/Ss. Therefore, we believe the change does not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards analysis and concurs with the licensee's conclusions. Therefore, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Indiana Michigan Power Company, Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of amendment request: May 14, 1990

Description of amendment request: The proposed amendment would change Technical Specification (TS) 3/4.7.1.5, "Steam Generator Stop Valves," to require full valve closure within eight seconds. The TS currently requires full valve closure within five seconds. Additionally, TS Table 3.3-5, "Engineered Safety Features Response Times," Items 5.h, 6.h, and 7.c would be changed to reflect the increased time allowed for steam generator stop valve closure.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (ii) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92 and has determined the following:

Criterion 1

Based on the safety analyses performed by Westinghouse for the steam line break core response, steam line break mass/energy releases for inside containment integrity, steam line break mass/energy releases outside containment, feedline break, SGTR, and LOCA, we believe that the proposed T/S change to increase the steam line break isolation response time and the steam generator stop valve closure time by three seconds will not involve a significant increase in the probability or consequences of a previously analyzed accident.

Criterion 2

The three-second increase for the steam line isolation response time will not change the design or operation of the plant. Therefore we believe that this change will not create the possibility of a new or different kind of accident from any previously analyzed or evaluated.

Criterion 3

Based on the safety analyses performed by Westinghouse for the steam line break core response, steam line break mass/energy releases for inside containment integrity, steam line break mass/energy releases outside containment, feedline break, SGTR, and LOCA, we believe that the proposed T/S change increasing the steam line break isolation response time and the steam generator stop valve closure time by three seconds will not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards analysis and concurs with the licensee's conclusions. Therefore, the staff proposes to determined that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: April 10, 1990

Brief description of amendment: The amendment changes Technical Specification 5.6.1(a) to allow enrichments up to 4.5 weight percent U-235 to be stored in the new fuel storage racks and Technical Specification 5.3.1 to allow 4.5 weight percent U-235 to be the maximum fuel enrichment in the reactor core.

Date of issuance: June 13, 1990

Effective date: June 13, 1990

Amendment No.: 146

Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 2, 1990 (55 FR 18411) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 13, 1990

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thomas Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of amendment request: June 1, 1990

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) for Limerick Generating Station (LGS), Unit 1 to reflect two fire protection modifications which the licensee has committed to perform during the upcoming refueling outage. There are two proposed TS changes. The first proposed TS change reflects a proposed modification to replace the existing suppression pool water temperature indication (actually the water temperature at the suction of the 'A' Residual Heat Removal pump) at the Remote Shutdown Panel (RSP) with direct temperature indication of the suppression pool water. The second proposed TS change reflects a proposed modification to provide for the control of emergency power to the Reactor Core Isolation Cooling (RCIC) System steam supply line inboard containment isolation valve from the RSP. These modifications are proposed to be performed during the next (third) refueling outage for LGS, Unit 1, currently scheduled to begin in September 1990, based on commitments in Licensee Event Report (LER) Nos. 1-89-002, "Unavailability of the Reactor Core Isolation Cooling System Due to Insufficient Protection of Various Control and Power Cables from Postulated Fire Damage," Rev. 01, dated March 31, 1989, and 1-89-023, "Lack of Protected Suppression Pool Level and Temperature Indication in the Event of a Fire," dated May 5, 1989. For plants licensed after January 1, 1979 (such as LGS, Unit 1), the requirements of 10 CFR 50.48 and 10 CFR 50, Appendix R are invoked by the Standard Review Plan (NUREG-0800), Section 9.5.1, dated July 1981 and its associated attachment, Branch Technical Position (BTP) CMEB 9.5-1.

The remote shutdown system instrumentation and controls located on the RSP were designed in accordance with General Design Criterion (GDC) 19 of 10 CFR 50, Appendix A to ensure that sufficient capability is available to permit shutdown and maintenance of the safe hot shutdown condition of the unit from locations outside of the main control room (MCR) in the event MCR habitability is lost. The remote shutdown system instrumentation and controls are also used to satisfy the alternative shutdown requirements of BTP CMEB 9.5-1 for shutdown from outside of the MCR in the event of a fire. TS Table 3.3.7-4-1, "Remote Shutdown System Instrumentation and Controls," TS page 3/4 3-77, currently indicates that the suppression pool water temperature indication at the RSP is actually indication of the water temperature at the suction of the 'A' Residual Heat Removal (RHR) pump (i.e., when the RHR pump is aligned for suppression pool cooling).

In LER No. 1-89-023 for LGS, Unit 1, dated May 5, 1989, the licensee reported that this indication of suppression pool water temperature may be lost in the event of a fire for which shutdown from the RSP is required since the 'A' RHR pump suction water temperature indicator, TI-51-104A, is powered from a non-Class 1E electrical power source and its associated cabling is not protected from fire damage. In LER 1-89-023, the licensee committed to perform a modification during the third refueling outage to provide suppression pool water temperature indication at the RSP which would be available to support safe shutdown of the plant from outside the MCR in the event of a fire. This proposed modification will replace the 'A' RHR pump suction water temperature indication at the RSP with direct temperature indication of the suppression pool water using spare resistance temperature detector (RTD) elements from the existing Suppression Pool Temperature Monitoring System (SPTMS). SPTMS provides suppression pool water temperature indication in the MCR only. This proposed modification will provide suppression pool water temperature indication which is powered from a Class 1E electrical power source and for which the associated cabling is protected from fire damage.

Once this proposed modification is complete, the TS reference "(Actually RHR Pump 'A' Suction Temperature)" for the suppression pool water temperature indication on TS Table 3.3.7.4-1 will no longer be valid. Therefore, a change is proposed to TS page 3/4 3-77 to delete this reference such that TS Table 3.3.7.4-1 will specify "Suppression Chamber Water Temperature" only.

The RCIC system is used to support certain methods of safe shutdown of the plant in the event of a fire. In LER No. 1-89-002, Rev. No. 1, for LGS, Unit 1, dated March 31, 1989, the licensee reported that a fire in certain areas of the plant could result in the unavailability of the RCIC system steam supply line inboard containment isolation valve, HV-49-1F007. This valve is controlled from the RSP in support of safe shutdown from outside the MCR in the event of a fire. Although the RSP is powered by electrical Division 1 AC power, the HV-49-1F007 valve is powered from electrical Division 3 AC power, and will automatically close upon receipt of a Division 3 isolation signal. However, Division 3 control and power cables were not protected in those fire areas for which the RCIC system is used to support safe shutdown of the plant in the event of a fire. Fire-induced damage to the Division 3 control cables could produce a false isolation signal which would cause the HV-49-1F007 valve to close. Fire-induced damage to the Division 3 power cables, from the same fire, could cause a loss of power required to reopen the valve. If, in the event of a fire, the valve closes and power is lost before the valve can be reopened, the RCIC system would be rendered inoperable. In LER 1-89-002, the licensee committed to perform a modification during the third refueling outage which would provide the capability, through a manual transfer switch located at the RSP, to power valve HV-48-1F007 from an emergency (Division 1) power source. This emergency power source would be available in the event of a fire to provide the ability to reopen the valve. As part of the proposed modification, this emergency source will be powered through a normally locked open, instantaneous magnetic circuit breaker mounted in an electrical Division 1 motor control center (MCC). Also, a second, normally closed, thermomagnetic circuit breaker will be added as a back-up breaker to provide

the redundant protection specified by Regulatory Guide 1.63, "Electric Penetration Assemblies in Containment Structures for Nuclear Power Plants," for electrical cables and wiring that penetrate the primary containment. This second circuit breaker is also required to assure capability to disconnect from the Division 1 power bus for any faulted load condition.

As a result of this proposed modification, a change is proposed to TS Table 3.8.4.1-1, "Primary Containment Penetration Conductor Overcurrent Protective Devices," TS page 3/4 8-24, to add the primary and backup circuit breakers for the Division 1 emergency power supply to the RCIC system steam supply inboard containment isolation valve, HV-49-1F007, to this table. Both breakers are identified by a single circuit breaker number, 52-21331, since both breakers are located in the same MCC cubicle. TS Table 3.8.4.1-1 currently lists the primary and back-up breakers (circuit breaker no. 52-22313) for the normal Division 3 power supply to the HV-49-1F007 valve.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; (3) Involve a significant reduction in a margin of safety.

The licensee has provided a separate analysis of no significant hazards considerations for each of the two modifications with the request for the license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 for the suppression pool temperature monitoring modification is reproduced below:

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS change reflects a proposed modification to replace the existing suppression pool water temperature indication at the RSP (i.e., the water temperature at the suction of the 'A' RHR pump) with direct temperature indication of the suppression pool water. This proposed modification will ensure the availability of suppression pool water temperature indication at the RSP to support safe shutdown of the plant from outside the MCR in the event the MCR becomes uninhabitable for any reason, including fire.

This proposed modification will use two spare RTD elements from SPTMS. Sufficient spare RTD elements are still available such that the design operation of SPTMS is unaffected by the proposed modification. The new temperature instrumentation loop will be powered from an electrical Division 1, Class 1E source. The increased loading on this power source will be negligible, and therefore, will have no effect on the ability of this Class 1E source to perform its intended function.

This proposed modification will not use any instrumentation with accuracies or response characteristics that are different than the existing temperature instrumentation. This proposed modification will meet applicable construction standards, design, and material requirements. The new temperature instrumentation loop will provide increased reliability since its design conforms to applicable criteria for physical separation, redundancy, and divisionalization. The new temperature instrumentation loop components will be environmentally qualified, qualified to Seismic Category I and Class 1E, and energized from onsite emergency power supplies in the event offsite power is lost. This proposed modification does not introduce any new failure mode and does not alter any assumptions previously made in evaluating the radiological consequences of an accident. The proposed change does not affect limiting safety system settings or operating parameters, and does not modify or add any initiating parameters that would cause a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS change reflects a proposed modification to replace the existing suppression pool water temperature indication at the RSP. This proposed modification does not delete or modify remote shutdown system protection features, downgrade any support system performance necessary for reliable operation of equipment, reduce system redundancy or independence, or impose more severe testing requirements. This proposed modification has no impact on the operation of the RHR system or SPTMS. This proposed modification does not change or add any components in the remote shutdown system which could fail in a different mode than was previously evaluated. The proposed change does not involve any change to setpoints or operating parameters not does it involve any potential initiating event that would create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change does not involve a significant reduction in a margin of safety.

The proposed TS change reflects a proposed modification to replace the existing suppression pool water temperature indication of the RSP. This proposed modification will use two spare RTD elements from SPTMS. Sufficient spare RTD elements will still be available in case of failure of the primary elements such that the operation of SPTMS will not be affected. Additionally, the reliability of the suppression pool water temperature indication at the RSP will be improved since the new temperature loop will be powered from a Class 1E source, its associated cabling will be protected from fire damage, and the proposed modification will provide the operator with the ability to select between two RTD elements on opposite sides of the suppression pool to give a better profile of suppression pool water temperature, rather than having only the single 'A' RHR pump suction water temperature indication. This proposed modification will not alter the intended function of the system involved, but will ensure that suppression pool water temperature indication is available at the RSP to support safe shutdown of the plant from outside the MCR in the event the MCR becomes uninhabitable for any reason, including fire. This proposed modification will not alter any limiting conditions for operation or surveillance requirements related to suppression pool water temperature. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The licensee's analysis of the proposed amendment to reflect the modification to provide for transfer at the RSP to an emergency power source for the RCIC system steam supply line inboard containment isolation valve (HV-49-1F007), in the event of a fire, against the three standards in 10 CFR 50.92 is reproduced below:

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposed TS change reflects a modification which can only affect operation of the RCIC system steam supply line inboard containment isolation valve, its normal electrical power source (Division 3) and its emergency electrical power source (Division 1). All components are Class 1E, environmentally and seismically qualified, and installed in accordance with Class 1E and seismic requirements.

During normal operation, separation will be maintained between Division 1 and Division 3 electrical equipment by two locked open devices, a breaker in the Division 1 MCC and the breaker connected to the emergency Division 1 power source in the transfer switch; therefore, operation of the Division 1 and Division 3 electrical equipment is unaffected. The inboard and outboard isolation valves are normally open, thus, only the reactor vessel isolation function can be affected. Since the door to the terminal box containing the manual transfer switch will be locked closed with the transfer switch in the "normal" position, the probability of failure of the valve to close when required is unaffected. With the transfer switch in either position, Division 1 and Division 3 electrical equipment and the

electrical containment penetration for the power supply to the HV-49-1F007 valve will be protected by two redundant breakers.

Administrative procedures will ensure that the amount of time Division 3 cabling is exposed to Division 1 power is kept at an absolute minimum. Procedures will also limit the interconnection of Division 3 circuits with Division 1 power to the valve, the MCC, the RSP, and interconnecting wiring. Wiring and circuits in the control complex will not be involved. The proposed modification does not affect the capability of the RCIC system or the RSP to perform their intended functions. Additionally, the proposed modification does not increase the probable, consequences of a fire as previously evaluated. Therefore, the proposed change does not cause a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed TS change reflects a modification which maintains the design functions, the separation criteria, divisional power requirements, seismic requirements, and environmental qualification requirements of the RCIC system and the RSP except for the brief time of power transfer during a fire event or testing of the transfer switch when separation and divisional power requirements are not met. During the brief time when these requirements are not met, the protection discussed previously will be provided to ensure that a fault in the Division 3 circuitry will not affect the Division 1 power supply, and energization of the valve's Division 3 control circuitry from a Division 1 source in control panels is limited to the RSP. Thus, the normal plant operation will remain within the envelope of analyzed conditions, and the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change does not involve a significant reduction in a margin of safety.

This proposed TS change reflects a proposed modification to provide the ability at the RSP to transfer to an emergency power source for the HV-49-1F007 valve in the event the normal power source for this valve is lost as a result of a fire. The proposed modification does not affect any limiting safety system settings or other setpoints, or instrument accuracy and drift requirements. The proposed modification maintains the seismic requirements and the environmental qualification requirements for the RCIC system and the RSP, and the intent of the separation criteria and electrical divisional power requirements. The design function of the RCIC system and the RSP will not be affected by the proposed modification. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination as to whether the proposed amendment involves a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of amendment request: June 14, 1990

Description of amendment request: The amendment would revise the Technical Specifications (TSs) to add new isolation valves to the table of primary containment isolation valves that must be operable and to delete the presently designated valves on the same lines. Limerick, Unit 1, is scheduled to shutdown for the third refueling outage on September 8, 1990. During the refueling outage, the licensee plans to install eight new check valves (four pairs of valves) on the control rod drive (CRD) supply headers to the hydraulic control units (HCUs). These new valves will constitute a new isolation boundary for the Integrated Leak Rate Test (ILRT), replacing the existing HCU isolation boundary valves. The proposed changes to the TS are to include the new valves in Table 3.6.3-1, "Part A - Primary Containment Isolation Valves" and to remove the current valve numbers for the HCU boundaries.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards considerations with the request for the license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The piping to be included within the new isolation boundary complies with the same standards and specifications as the original boundary. The number of active components making up the boundary will be reduced from approximately 1300 to four. Therefore, there will be no increase in the probability that the isolation boundary will be breached.

The current CRD isolation boundary includes the insert and withdraw lines, the scram discharge volume and the HCUs. The relocation of the boundary will add some of the supply header piping but will not affect the existing equipment. The added piping is small diameter (2' or less) comparable to the previously analyzed scram discharge drain line. The consequences of a pipe failure inside the isolation boundary remain within the envelope analyzed in NUREG 0803. Therefore, the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes are intended to take credit for the newly installed isolation valves on the CRD common headers. These valves and associated piping are designed and installed in compliance with all applicable criteria. In addition, they will meet all performance requirements currently existing for the approximately 1300 HCU isolation boundaries. In effect, the only change will be to reduce the testable penetrations from 1300 to four. The proposed TS changes merely substitutes one isolation boundary for another and therefore cannot create a new or different kind of accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

As discussed in items 1 and 2 above, the newly installed valves and associated piping meet all applicable design requirements. In addition, the consequences of a pipe failure inside the isolation boundary remain within the envelope analyzed in NUREG 0803. The valves will be tested to ensure compliance with existing performance requirements for isolation boundaries. Further, the performance of the CRD system is well within the system capability for normal operation, and control rod scram performance is unaffected. Therefore, the proposed changes to not involve a reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination as to whether the proposed amendment involves a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: May 29, 1990

Description of amendment request: The amendments would revise the Technical Specifications (TS) in accordance with the guidance specified in NRC Generic Letter 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications in the Administrative Controls of Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or to the Process Control Program." Generic Letter (GL) 89-01 suggests that licensees (1) implement programmatic controls for Radiological Effluent Technical Specifications (RETS) in the Administrative Controls section of TS, and (2) relocate procedural details of RETS to the Offsite Dose Calculation Manual (ODCM) or to the Process Control Program (PCP). In addition, the licensee is proposing that the following TS sections be relocated to the ODCM.

(1) TS Section 3/4 3.7.3, "Meteorological Monitoring Instrumentation," and

(2) TS Section 5.0 "Design Features," Subsection 5.1.3.1a and 5.1.3.1b Site Map(s), "Defining Unrestricted Areas and Site Boundary for Radioactive Gaseous and Liquid Effluents."

The relocation of the TS Sections 3/4 3.7.3, 5.1.3.1a, and 5.1.3.1b to the ODCM is beyond the scope of GL 89-01; however, these sections are closely related to effluent release sections of the RETS. Therefore, changes to these TS sections may affect the RETS and should be processed in a manner similar to the proposed changes to the RETS.

In addition, the licensee is proposing to remove the Main Condenser Offgas Pre-treatment Monitor requirement from TS Section 3/4 11.2.1 (Table 4.11.2.1.2-1) since this requirement was originally misapplied to this section.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards considerations with the request for the license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below:

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Relocating the procedural details of the RETS and meteorological monitoring program/site boundary maps from TS to the ODCM or PCP, as appropriate, and replacing them with programmatic controls which satisfy the applicable regulatory requirements in the Administrative Controls section of TS, do not affect plant operations. The proposed changes do not increase or decrease the level of radiological effluent control.

The proposed change to remove the gaseous effluent requirements for the Main Condenser Offgas Pre-treatment Monitor does not affect plant operations. This requirement was misapplied and should not have been specified for this monitor since this is not a release point monitor. The proposed change does not increase or decrease the amount of radiological effluent control.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes do not involve any physical alterations of plant configurations, changes to setpoints, or operating parameters. The proposed TS changes are consistent with all the design requirements applicable to the original design. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed changes do not involve a significant reduction in a margin of safety.

The proposed TS changes are administrative changes, in which the procedural details of the RETS and meteorological monitoring program are relocated to the ODCM and PCP, as appropriate, and programmatic controls satisfying the applicable regulatory requirements, are added to the Administrative Controls section of TS. Only minor editorial changes have been made in the wording of the procedural details of RETS. These minor editorial changes do not change the meaning of the procedural details, and are consistent with wording provided in NRC GL 89-01.

The proposed change to eliminate the gaseous effluent monitoring requirement for the Main Condenser Offgas Pre-treatment Radioactivity Monitor is editorial. This requirement was misapplied, since this monitor is not a release point monitor.

The additional proposed Administrative Controls being added to TS delineate the essential aspects of the RETS being relocated to the ODCM or PCP as appropriate, such that the associated requirements and established safety margins will continued to be maintained. Therefore, the proposed changes do not involved a significant reduction in a margin safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination as to whether the proposed amendment involves a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: June 14, 1990

Description of amendment request: The amendments would change the Technical Specifications to remove the requirement that the Average Power Range Monitor (APRMs) have to be operable while in Operational Condition 5 (OPCON 5). By definition, Operational Condition 5 is the Refueling condition, with the reactor mode switch in the shutdown or refuel position and with the reactor coolant temperature less than 140° F. The APRMs monitor core power from about 1% of full reactor power to 125% of full reactor power. The APRMs are not necessary for maintaining the plant in a safe condition while shutdown for refueling because there are sufficient levels of protective controls designed to prevent inadvertent criticality and fuel damage. The Intermediate Range Monitors (IRMs), the Source Range Monitors (SRMs), Refueling Interlocks and plant procedures each provide protection to maintain defense-in-depth and therefore preclude the need for the APRMs to be operable when the plant is shutdown.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards considerations with the request for the license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Not requiring APRMs to be operational in OPCON 5 will not increase the probability of inadvertent reactor criticality during refueling operations. [Refueling Interlocks] (RIs), [the Neutron Monitoring Systems] (NMSs), (SRMs, IRMs), and procedural restrictions provide assurance that inadvertent criticality does not occur due to the simultaneous withdrawal or removal of two control rods or due to the inadvertent insertion of a fuel bundle into a core location with a control blade removed.

The FSAR Section 15.4.1 discusses the potential for a control rod withdrawal error during refueling and start-up operations. The discussion concludes that the withdrawal of one control rod does not require a safety action because the total worth of one control rod is not sufficient to cause criticality. The attempted withdrawal of two control rods, assuming an operator error and a single active failure, would result in a control rod block initiated by the RIs. The safety-related IRM subsystem, which is required by TS to be operable while in OPCON 5, is designed to generate a rod block or reactor scram on high neutron flux and is therefore a backup protective system for the RIs during refueling.

The FSAR Section 15.9.2 discusses two potential transient conditions during refueling with the reactor shutdown. The first is a control rod withdrawal error during Refueling which is terminated by a control rod drive block.

The second is a manual or inadvertent reactor transient caused by multiple operator errors or equipment failures which is mitigated by a reactor scram signal. Although neither of these two events is assumed to be mitigated by the NMS, the NMS subsystems (i.e., SRMs, IRMs) are available and operable to generate a rod block or scram signal if required during refueling.

The safety-related IRM subsystem of the NMS is required by TS to be operational during OPCON 5 to support the safety design bases of the NMS and RPS. The SRM is not a safety-related subsystem but is important to plant safety and is required to be operational in OPCON 5. The SRM subsystem provides the plant operator with neutron flux levels from startup conditions to the IRM operating range. The SRMs and IRMs are designed to respond to local core conditions and would indicate and respond (control rod block or scram) to an accident condition to mitigate the transient. Thus, the APRMs are not necessary to be operable in OPCON 5. The proposed TS change will not alter the current requirements that the APRMs be operable during shutdown margin demonstrations in OPCON 5 when the mode switch is in Startup.

The proposed TS change would reduce the APRM operability requirement in OPCON 5 and would not affect the FSAR evaluation of the inadvertent criticality due to the withdrawal or removal of the highest worth control rod or due to the insertion of fuel bundles in uncontrolled cells. The FSAR concludes that the RIs and plant procedures provide assurance that inadvertent criticality does not occur during refueling

The FSAR also presented two potential transients during refueling with the reactor shutdown. One transient is terminated by a control rod block and the other by a reactor scram. Neither transient requires the NMS to mitigate the event. Removing the APRM operability requirement in OPCON 5 would not increase the consequences of either transient since the IRMs will still be operable in OPCON 5 to generate an RPS scram or control rod block if neutron flux increased to the applicable setpoint. The IRMs function as a backup protective system to RIs during refueling.

The consequences of an accident will not be increased by the proposed TS change because of the existing lines of defense which prevent an inadvertent criticality event during refueling, e.g., administrative restrictions, refueling procedures, licensed plant operators, SRMs, RIs, and IRMs. Furthermore, should the number of operable IRM or SRM channels be less than that required by TS, the TS require that core alteration activities be suspended and all insertable control rods be inserted into the core.

Therefore, the proposed changes do not result in an increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the TS will remove the APRM operability requirement while in OPCON 5 (except for shutdown margin demonstration testing); however, the SRMs and IRMs will still be required to be operable in OPCON 5. The IRMs are safety-related and are designed to detect and respond to increases in neutron flux within the local core regions. Any inadvertent increases in neutron flux during refueling would originate at a local core location, i.e., rod withdrawal error or fuel bundle insertion. TS require IRM operability and will generate an RPS scram or control rod block if neutron flux increased to the setpoint. Therefore, removing the APRM operability requirement in OPCON 5 would not effect any safety-related equipment or equipment important to safety.

The APRMs provide core power information to the control room operator and also provides trip signals to the RMCS and RPS as required. Also, the APRMs provide an input signal to the RRCS. The absence of an APRM input signal will not affect these systems during refueling operations.

Removing the APRM operability in OPCON 5 will not affect the response of safety-related equipment as previously evaluated in the FSAR. The proposed changes to the TS do not affect any safety-related equipment or equipment important to safety.

Removing the APRM operability requirement during refueling will eliminate the APRM input into the RRCS. However, the RRCS is not in service during refueling. The automatic injection mode of the SLCS is not required to be operational during refueling. SLCS can be manually operated, if required, independent of the RRCS. The proposed changes to the TS would remove the APRM operability requirement during refueling operations. TS require IRM operability and will generate an RPS scram or control rod block if neutron flux increased to the applicable setpoint.

No new types of accidents would be introduced since the SRMs and IRMs are available and required to be operable in OPCON 5. Both SRMs and IRMs would indicate and provide a rod block or scram signal, as appropriate, to an increase in neutron flux to mitigate a transient event. Furthermore, should the number of operable IRM or SRM channels be less than that required by TS, the TS require that core alteration activities be suspended and all insertable control rods be inserted into the core.

Finally, the APRMs do not have functions which can cause an accident condition.

Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

For the reasons discussed in items 1 and 2 above and because the TS Bases do not discuss or require APRM operability during OPCON 5, Refueling, the proposed TS changes do not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination as to whether the proposed amendment involves a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: May 21, 1990

Description of amendment request: Public Service Electric and Gas Company has proposed to revise the Salem 1 and 2 Technical Specifications, Section 3.3.1, Table 3.3-1, Table Notation triple pound symbol, to specify the surveillance results that require reporting under 10 CFR 50.73. This change replaces the "immediate" NRC notification requirement for reactor trip breakers (RTB) and reactor trip bypass breakers (RTBB) that exceed any procedural acceptance criteria or trip forces that exceed the recommended upper limit with a requirement to submit a written report within 30 days in accordance with 10 CFR 50.73. Also, the conditions required to be reported have been defined as:

1. A RTB or RTBB trip failure during any surveillance test with less than or equal to 300 grams of weight added to the breaker trip, or

2. A RTB or RTBB time response failure that results in the overall reactor trip system time response exceeding the Technical Specification limit.

This amendment request is a complete revision of the December 27, 1989 request. The proposed determination that the December 27, 1989 request involved no significant hazards consideration was published in the **Federal Register** (55 FR 6117) on February 21, 1990. The May 21, 1990 request supersedes the December 27, 1989 request in its entirety.

Basis for proposed no significant hazards consideration determination: Following the Salem ATWS events of February 22 and 25, 1983, PSE&G implemented extensive revisions to the maintenance and surveillance procedures associated with the reactor trip and reactor trip bypass breakers. Since many of these procedural changes were prototypical in nature, they were broad in scope and contained very conservative test and acceptance criteria. Additionally, because of the safety significance of these events, the NRC imposed conservative reportability requirements to ensure timely notification of hardware related deficiencies. These additional reporting requirements were subsequently incorporated into the Salem Unit 1 and 2 Technical Specifications.

Generic Letter 83-28 established industry wide required actions based on the generic implications of the Salem ATWS events. These actions addressed issues related to reactor trip system reliability and general management capability. The generic letter did not impose additional reporting requirements beyond those already in existence.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists:

1. Do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not affect the present level of breaker surveillance testing or maintenance. Breakers failing to satisfy the specified surveillance acceptance criteria will require appropriate action as indicated in the Technical Specifications.

Therefore, it may be concluded that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not adversely affect the design or operation of any system or component important to satisfy. No physical plant modifications or new operational configurations will result from this change.

Therefore, it may be concluded that the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do not involve a significant reduction in a margin of safety.

The present margin of safety is maintained, since breaker maintenance and surveillance testing is unaffected. The proposed change only affects the reporting of failures, by replacing the Technical Specification immediate notification requirement with the normal NRC reporting mechanisms specified in 20 CFR 50.73.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: June 5, 1990.

Description of amendment request: Proposed Change No. 220, which was submitted by Amendment Application No. 183, proposes to delete License Condition 3.L and convert its requirements into Technical Specifications (TS). The following changes are proposed by the licensee:

License Condition 3.L(1)

This license condition limits the total connected loads on each diesel engine to 6,000 KW (maximum) and limits the number of engine starts-stops between diesel crankshaft inspections to fifty (maximum).

The proposed change transfers some of these requirements to Technical Specification (TS) 3.7, "Auxiliary Electrical Supply," and the remainder to TS 4.4, "Emergency Power System Periodic Testing." The proposed change permits starts-stops associated with engine operation at 200 rpm or less to be excluded from the fifty starts-stops limit.

License Condition 3.L(2)

This license condition requires that a diesel maintenance and surveillance program as previously described in Amendment No. 123 be implemented.

The proposed change transfers this requirement to TS 4.4 and deletes the existing diesel inspection requirement in TS 4.4, which is superceded [sic] by the newer requirement.

License Condition 3.L(3)

This license condition incorporates by reference the recommendation made by the TDI diesel generator owners group to perform a major overhaul on each diesel engine once every ten years.

The proposed change transfers the owners group recommendation to TS 4.4.

License Condition 3.L(4)

This license condition requires that oil holes in main journals 8 through 12 on each diesel crankshaft be inspected for cracks at each plant refueling. It requires inspection of additional critical areas at each major engine overhaul. It requires that if cracks are found,

the engine be considered inoperable and the NRC be notified.

The proposed change transfers these requirements to TS 4.4.

License Condition 3.L(5)

This license condition requires both cylinder blocks on each engine to be periodically inspected for cracks. It provides additional inspection requirements for the right cylinder block of diesel engine no. 1 that has a degraded microstructure. It specifies that if certain types of cracks are found, the engine be considered inoperable and the NRC be notified.

The proposed change transfers these requirements to TS 4.4.

License Condition 3.L(6)

This license condition specifies that all diesel starts for testing and surveillance be slow starts, i.e., taking more than 24 seconds, except where a fast start is required either by the plant TS or for specific maintenance purposes.

The proposed change transfers this requirement to TS 4.4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

1. *Question:* Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The function of the emergency diesel generators is to provide A.C. power for accident mitigation if offsite power to the plant is lost. An improvement in the reliability of these diesels is therefore beneficial to the plant and will not increase the probability or consequences of an accident previously evaluated. The purpose of the six diesel license conditions was to improve and maintain the reliability of the diesels by ensuring that certain operational restrictions and maintenance and surveillance recommendations which were the result of the owners group effort are implemented. The proposed change will ensure that this continues to be the case.

License Condition 3.L(1) was imposed by the NRC on a temporary basis. Its purpose was to ensure the interim reliability of the diesel crankshafts while the NRC was completing its review of the owners group crack propagation analysis for the crankshafts. Since then, the NRC has completed its review and documented the remaining diesel reliability issues in a safety evaluation... [dated November 21, 1989 - TD1 Diesel Crankshaft Cracking Problem].

The safety evaluation leads to the following conclusions:

(1) Operation of the diesels up to 6,000 KW is acceptable for the long term.

(2) A crankshaft inspection interval of fifty start-stop cycles is acceptable for the long term, if SCE demonstrates that the eddy current testing (ECT) technique can detect 10 mil deep cracks.

Recent experimental results have shown that ECT is capable of detecting 5 mil deep cracks. For details regarding this experiment, see Attachment 3 to this proposed change.

(3) Engine start-stop cycles with engine speed less than 200 rpm need not be counted toward meeting license condition 3.L(1), if SCE demonstrates that the stresses induced in the crankshaft at startup and coastdown are less than the 6,000 KW steady state values.

The required analysis has been completed. Attachment 3 to this proposed change presents a summary of the results.

The crankshaft stresses during idle speed startup (0-150 rpm), idle speed operation (150-200 rpm), and coastdown from idle speed were analyzed. These stresses were compared with the crankshaft stresses previously calculated by FaAA... for full load (6,000 KW) steady state operation ["Evaluation of Transient Conditions on Emergency Diesel Generator Crankshafts at San Onofre Nuclear Generating Station Unit 1," FaAA-84-12-14, Rev.1.0, April 1985]. In all cases, the full load stresses were found to be higher.

(4) Since crankshaft cracks as deep as 1/4 inch were reported previously, it is possible that oil impurities, which result from engine operation or oil manufacture, may have contributed to crack initiation and propagation. SCE should therefore review and make appropriate revisions to its diesel oil maintenance procedures.

The diesel oil sampling, testing and analysis procedure has been reviewed. No evidence was found to indicate that the diesel oil used by San Onofre Unit 1 accelerates stress corrosion cracking or bulk corrosion processes. A review of the oil sampling and analysis methods shows that the total base number and water content of the oil are within acceptable limits. The crankshaft material has the recommended hardness value and yield strength to resist corrosion in a sulfide bearing environment. Key oil parameters are trended. No changes to the procedures are considered necessary. For additional details regarding the review, see Attachment 4 to this proposed change.

Based on the above information, the requirements of license condition 3.L(1), as modified by this proposed change for long term application, are acceptable and will not adversely impact diesel reliability nor increase the probability or consequences of an accident previously evaluated.

License Condition 3.L(2) requires the implementation of a comprehensive diesel engine maintenance and surveillance program. The proposed change makes this requirement a part of the Technical Specifications. With this change, the diesel inspection requirement found in existing Technical Specification 4.4.F will become superfluous and will be deleted. This entire change is considered administrative and will not increase the probability or consequences of an accident previously evaluated.

The proposed changes relating to license conditions 3.L(3) through 3.L(6) are also administrative and will not increase the probability or consequences of an accident previously evaluated.

2. *Question:* Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed changes do not affect plant equipment or plant operations other than the diesels and their operation. The proposed changes are designed to improve and maintain diesel reliability. They do not include any changes that go beyond the issues covered in the NRC's safety evaluation... [dated November 21, 1989]. Based on this information the proposed change will not create the possibility of a new or a different kind of accident from any accident previously evaluated.

3. *Question:* Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed changes affect only the diesels and their operation. They are designed to improve and maintain the reliability of the diesels. They do not introduce any new safety issues. As such, they do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: John T. Larkins (Acting)

Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment requests: April 19, 1990 (TS 279)

Description of amendment requests: This amendment revises Browns Ferry Technical Specifications - Liquid Radwaste Effluent Flow Measurement. This amendment removes reference to fixed in-line rotometer which is no longer used to monitor the liquid radwaste effluent flow rate as noted in Table 3.2.D of BFN Technical Specifications for Units 1, 2 and 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(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility

in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) Create the possibility of a new or different kind of accident from an accident previously evaluated, or (3) Involve a significant reduction in a margin of safety. 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. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The new instrumentation provides improved performance of the monitoring loop and does not affect the function, operation, or qualification of any components associated with the radwaste system. There are no accidents previously evaluated which would be initiated by a failure of a component associated with this monitoring loop.

2. The proposed amendment does not create the possibility of a new or different kind of accident previously evaluated. The upgrading of the existing non-safety related flow measuring instrumentation has no impact on any safety-related components of the radwaste system or its associated equipment.

3. The proposed amendment does not involve any significant reduction in a margin of safety. The upgrading of these non-safety related components will not cause the acceptance limit for any accident analysis to be exceeded, nor does it change any margin of safety. This change will have no effect on the concentrations or flow rates of radioactive effluents and will enhance TVA's ability to monitor flow rates to ensure compliance with 10 CFR 20.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment requests: May 18, 1990 (TS 280)

Description of amendment requests: BFN Units 1, 2 and 3 technical specifications (TSs) are being changed to: (1) revise Table 3.2.B and Limiting Conditions for Operation (LCO) 3.5.B.11, 3.5.E.1, 3.5.F.1, 3.5.G.1, and 3.6.D.1 to clarify equipment operability requirements when the reactor is in the cold shutdown condition or during performance of inservice hydrostatic or leakage tests; (2) revise the maximum operating power level allowed with an inoperable Recirculation Pump Trip (RPT) system(s) from 85 percent to 30 percent power; and (3) correct two typographical errors in Table 3.2.B.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) Create the possibility of a new or different kind of accident from an accident previously evaluated, or (3) Involve a significant reduction in a margin of safety. 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. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. Change 1 clarifies equipment operability requirements with the reactor in the cold shutdown condition or during performance of inservice hydrostatic and leakage tests. With the reactor in the cold shutdown condition, primary system energy is minimal and the controls rods are inserted. Reactor pressure is normally atmospheric except during performance of inservice hydrostatic tests, inservice leakage tests, and Integrated Leak Rate Tests (ILRT). This change would inhibit the drywell high pressure instruments which function to detect primary system leaks. With minimal system energy and no steam generation, this function is not required. The High Pressure Coolant Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) systems are not required because there is no steam supply to operate them and Residual Heat Removal (RHR) and Core Spray are operable and capable of providing makeup in case of leaks to protect the fuel from being uncovered. The Automatic Depressurization System (ADS) and relief valves are not required because alternate means of overpressurization protection are provided in the tests. The RHR crosstie is not required because there is no high energy potential to breach the torus in the cold shutdown condition. The change is consistent with industry practice and the GE BWR Standard TSs (NUREG 0123).

Change 2 is a more conservative requirement. The RPT system provides an automatic trip of both recirculation pumps after a turbine trip or a generator load reject. This reduction in flow increases the core voids and provides immediate negative reactivity to reduce the severity of the transient. There are two RPT systems. If both RPT systems are inoperable or if one RPT system is inoperable for more than 72 hours, reactor power shall be less than 30 percent within four hours (vs. the current 85 percent). The proposed value of 30 percent power is consistent with the BFN RPT analysis and the BFN Updated Final Safety Analysis Report. Therefore, this change involves no significant increase in the probability or consequences of an accident previously analyzed.

Change 3 is an administrative change that corrects typographical errors.

2. The proposed change does [changes do] not create the possibility of a new or different kind of accident from an accident previously evaluated. Change 1 does not involve changes in plant hardware or method of operation from that currently practiced. The changes are clarifications to TSs to facilitate performance of required TS testing with the reactor in the cold shutdown condition. The methods of performance are consistent with industry practice.

Change 2 will ensure that when both RPT systems are inoperable or when one RPT system is inoperable more than 72 hours, reactor power is dropped to a level consistent with the analysis performed for the RPT installation.

Change 3 corrects two typographical errors so the TSs will be more consistent.

3. The proposed changes do not involve a significant reduction in the margin of safety. Change 1 clarifies equipment operability requirements with the reactor in the cold shutdown condition or during performance of inservice hydrostatic and leakage tests. Sufficient safety equipment is still available to ensure the fuel remains covered, even in the event of leaks. It does not reduce the equipment available to mitigate an accident and as such does not reduce the margin of safety.

Change 2 is more conservative than the current TS. When the RPT system is inoperable the maximum allowed reactor power will be reduced. This is consistent with the analysis performed for the RPT installation and the FSAR and does not reduce the margin of safety.

Change 3 is an administrative change which does not reduce 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: Athens Public Library, South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: May 21, 1990 (TS 90-14)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposed to modify the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The proposed changes revise valve nomenclature in TS Table 3.6-2, Containment Isolation Valves. The nomenclature of 14 sampling valves in the TS table would be changed from flow control valve (FCV) to flow solenoid valve (FSV). The Unit 1 valves were changed in the recently completed Unit 1 Cycle 4 refueling outage. The Unit 2 valves will be replaced in the upcoming Unit 2 Cycle 4 refueling outage scheduled to begin in October 1990.

Basis for proposed no significant hazards consideration determination: In its submittal, TVA provided the following to support the proposed changes to the TSs:

...The change in valves is associated with plant modifications that support TVA's commitment for upgrading SQN Units 1 and 2 to meet the guidelines of NRC Regulatory Guide (RG) 1.97, "Instrumentation for Light Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident."...

The 14 air-operated FCVs as listed in SQN TS Table 3.6.-2 are being replaced with FSVs. SQN's current FCVs have limit switches that are not environmentally qualifiable. The valve stroke is too small (3/8 inch) to have functional and environmentally-qualified limit switches. Therefore, these valves will be replaced with FSVs that are totally enclosed and have reed switches internal to the valve. This changeout at SQN is required as part of TVA's commitment for complying with RG 1.97 (refer to License Condition 2.C.(24) of the SQN Unit 1 Facility Operating License DPR-77 and License Condition 2.C.(14) of the SQN Unit 2 Facility Operating License DPR-79).

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed technical specifications (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

TVA's proposed change to TS Table 3.6-2 does not change the containment isolation function for these valves. The valve changeout from air-operated FCVs to solenoid-operated FSVs was evaluated under TVA's 10 CFR 50.59 process. TVA's evaluation determined that an underviewed safety question does not exist. This changeout is required to support TVA's commitment for Regulatory Guide 1.97 compliance. The installation of FSVs with totally enclosed reed switches provides environmental qualification of these valves resulting in improved reliability for CIV position indication during and following an accident. The closure times for the FSV design also provides improved isolation response times. In addition, 10 CFR 50, Appendix J leak-rate criteria for the FSVs will not be compromised by this change. Consequently, TVA's proposed TS change does not increase the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

TVA's proposed change does not introduce the possibility for a new or different kind of accident from those previously analyzed. The proposed TS change was evaluated under the 10 CFR 50.59 process. [The function of these containment isolation valves is not being changed.] TVA's evaluation determined that there is not impact to SQN's containment integrity or containment isolation time. No new failure modes are introduced in the system and/or components, therefore no new unanalyzed accident scenarios are created by this change.

(3) Involve a significant reduction in a margin of safety.

The proposed change from FCV to FSV in Table 3.6-2 will not affect the containment isolation function for these valves. The change in valve design from air operated to solenoid operated provides an environmentally qualifiable valve, resulting in improved CIV position indication postaccident. This valve changeout will not impact the 5- and 10-second maximum isolation time requirement in TS Table 3.6-2. Therefore the proposed change does not reduce 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, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Docket No. 50-328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of amendment requests: May 21, 1990 (TS 90-09)

Description of amendment request: The Tennessee Valley Authority (TVA) proposed to modify the Sequoyah Nuclear Plant (SQN), Unit 2, Technical Specifications (TSs) on containment Type A or integrated leak rate tests (CILRTs). The proposed change is to add a footnote to Surveillance Requirement (SR) 4.6.1.2(b) regarding accelerated CILRT test schedules. The two tests performed on Unit 2 during the Unit 2 Cycle 2 refueling outage (November 1984) and the Unit 2 Cycle 3 refueling outage (March 1989) were classified as failed tests. In accordance with SR 4.6.1.2(b), these two consecutive failures require an accelerated test frequency. TVA's proposed TS change requests an exemption from the accelerated test frequency in SR 4.6.1.2.b for the Unit 2 Cycle 2 and Cycle 3 test failures. Without this change, the accelerated test frequency would require a Unit 2 CILRT in the upcoming Cycle 4 refueling outage which is scheduled to begin in October 1990.

Basis for proposed no significant hazards consideration determination: In its submittal, TVA provided the following information to support its proposed change to Unit 2 TSs:

TVA has evaluated the Type A test results in conjunction with the particular conditions that caused each of the Unit 2 CILRT failures and has determined that the increased surveillance frequency would be inappropriate. The leakage test results from each of the Unit 2 failures were below the maximum analyzed leakage limit (1.0 La). It should be noted that SQN's TSs contain a conservative leakage limit of 0.75 La. Test results, along with problem identification, have demonstrated that a general containment leakage problem does not exist. The particular conditions that caused each of the Unit 2 CILRT failures were positively identified. TVA has implemented a corrective action plan that directly addresses the cause of the CILRT failures to preclude recurrence. A detailed description of TVA's corrective action plan is provided in the justification for change provided below [submittal]. Based on

the improvements now contained in TVA's CILRT program coupled with the fact that the failed test leakage was below the maximum analyzed leakage, TVA has determined that increasing the frequency of the Type A test in accordance with SR 4.6.1.2(b) would not provide a corresponding increase in the level of confidence for demonstrating Unit 2 containment integrity.

In addition to the above, TVA has evaluated the hardships and impact of performing an increased frequency CILRT during the Unit 2 Cycle 4 refueling outage. TVA estimates the cost for setup, testing, and recovery to be approximateley $250,000. This does not include replacement power cost associated with the 3- to 4-day additional downtime. Current estimates of the replacement power cost during the fall and winter months (Unit 2 Cycle 4 refueling outage [is] scheduled from October to December 1990) would be approximately $1 million. Consequently, based on monetary options, TVA considers the request for relief from the TS SR to be economically prudent.

The Commission has provided standards for determining whether a significant hazards consideration 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 provided the following analysis:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The requested change does not require a physical modification to any plant system and does not affect any accident analysis. The exemption from the accelerated Type A test frequency is based on the fact that the measured as-found leakage rates for both Unit 2 CILRTs were below the safety analysis limit of 1.0 La. The implementation of TVA's corrective action plan is intended to correct the root causes of the problems that resulted in the Unit 2 Type A test failures. TVA's corrective action plan focuses attention on the root causes of Unit 2 leakage problems and is considered to be more appropriate than performance of two consecutive successful Type A leakage tests (i.e., increased frequency). A general containment leakage problem does not exist. [The maximum allowed containment leakage limit in the TSs is not being changed]. Therefore, the requested change does not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

No physical modification is being made to any plant system as a result of this change. The proposed exemption from the increased frequency requirement for Type A tests does not alter any accident analysis or any assumptions used to support the accident analysis. TVA has implemented a corrective action plan that is intended to prevent recurrence of previously identified leakage problems that were encountered during the last two Type A tests on Unit 2. Therefore, the possibility of a new or different kind of accident is not created.

(3) Involve a significant reduction in a margin of safety.

The margin of safety provided by the allowable containment leakage limit (0.75 La) currently contained in TSs remains unchanged. The as-left [CILRT] leakage value will still meet this limit. The nature of the problems encountered during the previous two Type A tests of SQN Unit 2 indicates that a general containment leakage problem does not exist. TVA's corrective action plan directly addresses the identified problem areas to prevent recurrence. Therefore, there is no significant reduction in 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 Project Director: Frederick J. Hebdon

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and 2, Louisa County, Virginia

Date of amendment request: May 16, 1990

Description of amendment request: The proposed changes would update the high range effluent monitor alarm setpoints in Table 3.3-6 of the North Anna Power Station, Units No. 1 and No. 2 (NA-1&2) Technical Specifications (TS). The high range effluent monitors and associated TS were formulated in response to NUREG-0737 accident monitoring requirements. The purpose of the "Hi" and "Hi Hi" alarms was to alert the control room operators of the impending need to declare a site area or general emergency. The criteria for declaring a site area or general emergency are specified in the NA-1&2 Emergency Plan Implementing Procedures (EPIPs), which have been revised since the original setpoint calculations were completed. These EPIPs contain conservative assumptions to be used for setpoint calculations such as worst-case dispersion factors. The proposed changes in ventilation and process vent setpoints, Hi and Hi Hi, represent substantial reductions (factors on the order of 1000) from the currently approved setpoint values specified in the NA-1&2 TS. Because the TS action statement allows a more conservative setpoint, NA-1&2 have been operating with lower setpoints based on the EPIPs. These setpoints were calculated with the use of the Xe-133 dose conversion factor specified in Regulatory Guide 1.109. Also, the ventilation vent and process vent monitors have been modified to multiply the concentration by the flow rate. Releases would therefore be reported in 10^{-6} curies per second (micro Ci/sec), a more relevant measure than the currently specified 10^{-6} curies per cubic centimeter (micro Ci/cc).

The auxiliary feedwater pump turbine exhaust monitor and the main steam monitor setpoints would also be revised due to changes in the EPIPs. These monitors would be needed if the secondary system was severely contaminated and the turbine-powered auxiliary feedwater pump or the main steam safety relief valves were used. The Hi setpoints are based on the site area emergency criteria specified in the NA-1&2 EPIP 4.07 and the Hi Hi setpoints based on general emergency criteria. The setpoints were calculated using the Xe-133 dose conversion factor specified in Regulatory Guide 1.109 and dispersion factors from EPIP 4.10. Flow rates for main steam and auxiliary feedwater pump turbine exhaust remain unchanged from the original calculation.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change request against the standards provided above and has determined that this change will not:

(1) Involve a significant increase in the probability or consequence of an accident or

malfunction of equipment important to safety as previously evaluated in the [Updated] Final Safety Analysis Report. The change[s] only [affect] the setpoints of the high range effluent monitors and will therefore not alter the probability of any accident. The use of setpoints based on current Emergency Plan Implementing Procedures [should] improve operator awareness and therefore will not increase the consequences of an accident.

(2) create the possibility of a new or different kind of accident or a malfunction of a different type than any previously evaluated in the [updated] Final Safety Analysis Report. The only safety function these systems provide is to provide information on releases. They therefore cannot create a new or different accident.

(3) involve a reduction in a margin of safety. The revision will provide the operator with more meaningful indication and will therefore not involve a reduction in a safety margin.

The NRC staff has made a preliminary review of the licensee's analyses of the proposed changes and agrees with the 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: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: May 15, 1990

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) 3.3.c.2, 3.6.b.1, 3.6.b.2, and 3.12.b to change the action statements for the containment cooling, shield building ventilation, auxiliary building ventilation and control room postaccident recirculation systems.

The proposed change to the containment cooling specification incorporates the results of reanalyses of the control room operator dose and offsite dose consequences following a design basis accident. The new analyses take some credit for the containment spray system to remove radioiodine from the containment atmosphere, whereas the previous analyses took no credit for this attribute in dose calculation assessments. The existing specification allows both trains of containment spray to be inoperable for up to 72 hours. The proposed change stipulates that one train of containment spray remains operable during power operation. The proposed action statements for the containment cooling system specifications are similar to standard TS for Westinghouse plants.

The proposed change to the shield building ventilation, auxiliary building ventilation and control room postaccident recirculation system specifications removes the requirement to demonstrate the opposite train operable when one of the two trains is made, or found to be inoperable. The licensee states that past performance of these systems has demonstrated that routine surveillance assures system operability; and that testing the opposite train for proof of operability unnecessarily challenges the equipment.

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 addressed these standards as provided in the following discussion.

(1) The amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated, because the proposed change of TS 3.3.c.2 concerns the containment spray system which is not a precursor to an accident analyzed in the Updated Safety Analysis Report (USAR), therefore, the proposed change would not increase the probability of occurrence of an accident. The resultant doses are less than those originally approved for Kewaunee and less than the 10 CFR Part 100 offsite limits, and within the GDC 19 guidelines for control room operators. On this basis, the proposed change will not result in an increase in the consequences of an accident.

The proposed change of TS 3.6.b.1, 3.6.b.2, and 3.12.b concerns the shield building ventilation (SBV) system, auxiliary building special ventilation (ABSV) system, and control room postaccident recirculation (CRPR) system which are not precursors to analyzed accidents; therefore, the proposed change will not increase the probability of an accident. Routine surveillance testing confirms system operability. Deleting unnecessary challenges to safeguards equipment will not increase the consequences of an accident.

(2) The amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated, since the proposed change is the result of a reanalyses of the control room operator and offsite dose consequences. No system or plant modifications are involved; therefore, the proposed change will not create the possibility of a new or different kind of accident.

(3) The amendment would not involve a significant reduction in a margin of safety, since the proposed action statements associated with TS 3.3.c.2 stipulate that one train of containment spray shall remain operable during power operation. Stipulating one train of containment spray remains operable during power operation assures conformance to the USAR and control room habitability assumption and represents an overall increase in safety. The proposed change is an additional restriction in Technical Specifications, and therefore, will not result in a decrease in the margin of safety.

The proposed change of TS 3.6.b.1, 3.6.b.2, and 3.12.b will eliminate unnecessary challenges to safeguards equipment. Deleting this additional testing requirement is consistent with Westinghouse Standard Technical Specifications which have this type of requirement only for the emergency power system. Since operability of the SBV, ABSV, and CRPR systems is demonstrated by surveillance procedures, removing this requirement from the action statements will not result in a decrease in a margin of safety.

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; and does not involve a reduction in the required margin of safety.

The Commission's staff has reviewed the licensee's submittal and agrees with the licensee's conclusions for the three standards. Accordingly, the Commission has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: David Baker, Esq., Foley and Lardner, P.O. Box 2193, Orlando, Florida 31082.

NRC Project Director: John N. Hannon.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: April 19, 1990 as supplemented June 7, 1990

Description of amendment request: The proposed amendment would modify the Technical Specification Surveillance Requirement to bring the High Pressure Safety Injection (HPSI) and LPSI pump surveillance frequency requirements in line with the Standard Technical Specifications for Westinghouse Pressurized Water Reactors (PWRs) contained in NUREG-0452, Revision 4, while providing for re-establishment of ASME XI inservice testing reference values as provided for in the code. NUREG-0452 requires surveillance of these pumps only when they are being tested to meet the inservice testing required by Section XI of the ASME Boiler and Pressure Vessel Code in effect for each specific plant.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with 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 an accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis:

This change is requested in order to revise the HPSI and LPSI pump surveillance requirements in Section 4.5.2a of the YNPS Technical Specifications. As such, this proposed change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. This change only revises the surveillance requirements for these pumps. The purpose of these surveillance requirements is to prove that the pumps are operable. The revised surveillance requirements will continue to demonstrate pump operability.

2. Create the possibility of a new or different kind of accident from any previously evaluated. Verification of pump operability is maintained while requiring no system configuration changes in order to perform surveillance testing, which adversely affect system functional performance.

3. Involve a significant reduction in a margin of safety. Verification of pump operability is maintained. The Inservice Testing Program at YNPS will continue to ensure that pump operational readiness criteria are consistent with the requirements of ASME XI. System performance surveillance will continue to be conducted in accordance with plant Technical Specifications.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff agrees with the licensee's no significant hazards analysis. Based upon the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02111

NRC Project Director: Richard H. Wessman

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: May 25, 1990

Brief description of amendment request: The amendment adds a clarifying note regarding frequency of the nuclear source range instrumentation Logic Channel Testing in Table 4.1-1 of the Technical Specifications. The amendment also corrects a typographical error and renumbers a subsequent note in Table 4.1-1.

Date of publication of individual notice in **Federal Register:** June 5, 1990 (55 FR 22975)

Expiration date of individual notice: Comment period expired June 20, 1990; notice period expires July 5, 1990 (original notice erroneously stated that the notice period ended June 20, 1990).

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and

(3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L 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, STN 50-529 and STN 50-530, Palo Verde Nuclear Generating Station (PVNGS), Unit 1, 2 and 3, Maricopa County, Arizona

Date of application for amendments: March 8, 1990

Brief description of amendments: These amendments remove the 3.25 limit on the combined time interval for three consecutive surveillance intervals in Technical Specification 4.0.2 and the associated Bases. The limit of 25 percent extension for individual surveillance intervals is retained.

Date of issuance: June 11, 1990

Effective date: 45 days from the date of issuance

Amendment Nos.: 45, 35, and 22

Facility Operating License Nos. NPF-41, NPF-41 and NPF-74: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** April 4, 1990 (55 FR 12589) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 11, 1990

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

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: June 30, 1989, as supplemented November 27, 1989, February 1, 1990 and April 20, 1990.

Brief description of amendment: This amendment incorporates changes to the methodology for predicting reactor vessel material embrittlement for the Shearon Harris Nuclear Power Plant, Unit 1, (Harris) Technical Specifications (TS). The revisions affect the pressure-temperature limitations on the Reactor Coolant System (RCS), the heatup and cooldown rates for the RCS, and the associated Low Temperature Overpressure Protection System (LTOP) set points. In addition, the new methodology requires related changes in: (1) recalculated limiting material reference temperature (RT sub-NDT), (2) modified LTOP enable temperature, (3) the selection of instrumentation for monitoring RCS average temperature, and (4) revisions to the TS Bases. Some administrative changes are made such as: (1) rewording to clarify certain specifications, (2) deleting redundant surveillances, and (3) removing the reference to criticality limits in TS 3.4.9.1, 3.4.9.2 and Figure 3.4-3.

Date of issuance: May 31, 1990

Effective date: May 31, 1990

Amendment No. 19

Facility Operating License No. NPF-63. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** October 4, 1989 (54 FR 40924) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 31, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: November 28, 1988, as revised February 15, 1990.

Brief description of amendments: The amendments modified the Technical Specifications by revising the adminstrative control requirements for the McGuire Safety Review Group (MSRG).

Date of issuance: June 6, 1990

Effective date: June 6, 1990

Amendment Nos.: 110 and 92

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 8, 1989 (54 FR 6193). Since the date of the initial notice, the licensee revised the application by letter dated February 15, 1990. The revision provided increased specificity with respect to the qualifications of the MSRG and did not alter the Commission's initial determination of no significant hazards consideration. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 6, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: February 13, 1990

Brief description of amendment: This amendment changes the Technical Specifications to allow elimination of the automatic simultaneous operation of the motor-driven emergency feedwater pump and the low pressure injection system when offsite power is not available, and changes response times for the low pressure and high pressure injection systems.

Date of issuance: June 4, 1990

Effective date: June 4, 1990

Amendment No.: 130

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 4, 1990 (55 FR 12591) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 4, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendments: December 5, 1989

Brief description of amendment: This amendment incorporates revised pressure/temperature limits and the results of a revised low temperature overpressure protection analysis into the Technical Specifications for St. Lucie Unit 1.

Date of Issuance: June 11, 1990

Effective Date: June 11, 1990

Amendment No.: 104

Facility Operating License No. DPR-67: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 27, 1989 (54 FR 53204) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendment: December 15, 1989, modified by letter dated April 24, 1990

Brief description of amendment: This amendment changes the St. Lucie Plant, Unit 1 Technical Specifications (TS) to enhance diesel generator reliability. It also makes St. Lucie Unit 1 TS for "Electrical Power Systems, A.C. Sources" similar to St. Lucie Unit 2 TS.

Date of Issuance: June 7, 1990

Effective Date: June 7, 1990

Amendment No.: 103

Facility Operating License No. DPR-67: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 10, 1990 (55 FR 933) The April 24, 1990 letter added two tests to the proposed Technical Specification changes and also provided clarifying information. This additional information did not alter 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 June 7, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: November 29, 1988.

Brief description of amendments: These amendments raise the trip set points and increase the span of allowable values for the 4KV Bus Loss of Voltage and 4KV Bus Degraded Voltage actuation relays.

Date of issuance: May 25, 1990

Effective date: May 25, 1990

Amendments Nos.: 137 and 124

Facility Operating Licenses Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10536). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 25, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Indiana Michigan Power Company, Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of application for amendment: October 25, 1989

Brief description of amendment: This amendment changes Technical Specification (TS) 3/4.4.9, "Pressure/Temperature Limits," to limit the maximum heatup rate to 60° F/hr and to provide revised heatup and cooldown pressure-temperature (P-T) limit curves. The maximum heatup rate is currently limited to 100° F/hr. The revisions are based on a reanalysis of reactor vessel sample material in accordance with Regulatory Guide (RG) 1.99, Rev 2.

Date of issuance: May 24, 1990

Effective date: As of the beginning of Cycle 8

Amendment Nos.: 123

Facility Operating License Nos. DPR-74. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 4, 1990 (55 FR 12594). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 24, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: December 29, 1989

Brief description of amendments: These amendments allow an extended surveillance interval of 18 months for the visual inspection of the ice condenser's lower support structures and turning vanes, and for the testing of the lower inlet doors of the ice condenser.

Date of issuance: May 29, 1990

Effective date: May 29, 1990

Amendments Nos.: 138 and 125

Facility Operating Licenses Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10538). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 29, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Indiana Michigan Power Company, Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: February 6, 1990

Brief description of amendments: This amendment revises Technical Specifications (TS) by implementing a Core Operating Limits Report (COLR) in accordance with Generic Letter 88-16, "Removal of Cycle-Specific Parameter Limits from Technical Specifications." Generic Letter 88-16 allows cycle-specific parameters, such as moderator temperature coefficient and the heat flux hot channel factor, to be removed from the TS and maintained in a COLR. NRC will be informed of changes to the operating limits. Changes to the operating limits will be made using NRC approved methodologies for the D. C. Cook Nuclear Plant.

Date of issuance: May 23, 1990

Effective date: As of the beginning of Cycle 8

Amendments Nos.: 122

Facility Operating Licenses Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10538). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 23, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: February 21 and March 15, 1990

Brief description of amendment: The amendment modifies the Technical Specifications (TS) as follows: (1) The cycle-specific operating limits are removed from a number of TS and incorporated in the Core Operating Limits Report (COLR) as defined in TS 1.42 and the reporting requirements associated with the COLR are also established; (2) an editorial change to TS 4.6.2.1 and 4.6.2.2 is made to improve readability, and (3) a change to TS 3/4.9.1 is made to correctly describe a method for immobilizing a manual valve.

Date of issuance: June 13, 1990

Effective date: June 13, 1990

Amendment No.: 50

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 18, 1990 (55 FR 14513) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 13, 1990

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thomas Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: March 21, 1990

Brief description of amendment: The amendment adds a new Technical Specification Section 3/4.7.11 "Ultimate Heat Sink" by a requirement to maintain an average water temperature less than or equal to 75 degrees F at the intake structure except when the reactor is in the cold shutdown or refueling condition.

Date of issuance: June 12, 1990

Effective date: June 12, 1990

Amendment No.: 145

Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 18, 1990 (55 FR 14512) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 12, 1990

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thomas Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: March 28, 1990

Brief description of amendment: Revises Appendix A Technical Specifications to eliminate requirement for automatic isolation function of wide range gas monitors.

Date of issuance: June 5, 1990

Effective date: June 5, 1990

Amendment No.: 74

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 18, 1990 (55 FR 14514) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 5, 1990.

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.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Units 1 and 2, San Luis Obispo County, California

Date of application for amendments: April 18, 1988, as supplemented by letter dated December 21, 1989 (Reference LAR 88-05).

Brief description of amendments: The amendments revised Technical Specification (TS) Sections 3.0.4, 4.0.3, and 4.0.4, and the associated TS Bases sections, which define the applicability of limiting conditions for operation and surveillance requirements. The amendments also delete the exceptions to TS 3.0.4 in a number of TS. The TS changes are in accordance with the recommendations of Generic Letter (GL) 87-09 to provide greater operational flexibility and preclude unnecessary plant shutdowns and to allow passage through or to operational modes as required to comply with Action Requirements.

Date of issuance: June 11, 1990

Effective date: June 11, 1990

Amendment Nos.: 55 and 54

Facility Operating License Nos. DPR-80 and DPR-82: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** May 3, 1989 (54 FR 18948). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 11, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: March 20, 1990

Brief description of amendment: This amendment made several administrative changes to the Limerick, Unit 1 Technical Specifications to eliminate differences between the Unit 1 and Unit 2 Technical Specifications.

Date of issuance: May 30, 1990

Effective date: May 30, 1990

Amendment No. 40

Facility Operating License No. NPF-39. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 18, 1990 (55 FR 14514) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 30, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: March 8, 1990 as supplemented on April 26, 1990. The supplemental letter proposed editorial and administrative revisions to the TS changes proposed in the original submittal. The staff has determined that these additional changes do not affect the proposed no significant hazards determination.

Brief description of amendments: These amendments changed the Technical Specifications to remove cycle specific parameter limits in accordance with the guidance provided in NRC Generic Letter 88-16 and to make miscellaneous administrative changes.

Date of issuance: May 21, 1990

Effective date: May 21, 1990

Amendments Nos.: 154 and 155

Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 18, 1990 (55 FR 14517) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 21, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: March 23, 1990

Brief description of amendment: The amendment revises Technical Specifications Table 4.1-3, "Frequencies for Equipment Tests." The change would revise testing to specify control rod movement of at least 10 steps to assure control rod movement. A two week surveillance interval is also changed to 31 days.

Date of issuance: June 5, 1990

Effective date: June 5, 1990, to be implemented within 30 days

Amendment No.: 99

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 2, 1990 (55 FR 18413) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 5, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: January 12, 1990, superseded April 20, 1990.

Brief description of amendment: This amendment removes the cycle-specific parameter limits from the Technical Specifications and places them in the Core Operating Limits Report in accordance with guidance contained in Generic Letter 88-16.

Date of issuance: May 31, 1990

Effective date: May 31, 1990

Amendment No.: 162

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** March 27, 1990 (55 FR 8234) and renoticed April 30, 1990 (55 FR 18042) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 31, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Public Service Electric & Gas Company, Docket No. 50-311, Salem Generating Station, Unit No. 2, Salem County, New Jersey

Date of application for amendment: April 4, 1990, and supplemented by letters dated April 12, 1990, April 20, 1990 and May 7, 1990, The May 7, 1990 letter provided information concerning the schedule for resolution of the main steam isolation valve slow closure time and did not increase the scope of the original amendment request and did not affect the staff's original no significant hazards determination.

Brief description of amendment: This amendment increased the allowable closure time of the main steam isolation valves from 5 seconds to 8 seconds until restart from the sixth refueling outage. The amendment for Unit 1 was processed as an emergency technical specification change in accordance with 50.91(a)(5).

Date of issuance: May 30, 1990

Effective date: May 30, 1990

Amendment No. 91

Facility Operating License No. DPR-75: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 26, 1990 (55 FR 17683) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 30, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: January 8, 1990 and supplemented March 12, March 19 and May 2, 1990.

Brief description of amendments: The amendments revised San Onofre Units 2 and 3 Technical Specification 3/4.3.1, "Reactor Protective Instrumentation," to increase the interval for refueling interval surveillance tests which are currently performed every 18 months, to each refueling, nominally 24 months and maximum 30 months. As the result of modifying the surveillance interval, changes were made to the Reactor Protective instrumentation setpoints in Technical Specification 2.2.1, Table 2.2-1; the High Logarithmic Power Level response time in Technical Specification 3/4.3.1, Table 3.3-2; and the calibration tolerance in Technical Specification 3/4.3.1, Table 4.3-1.

Additionally, the amendments revised San Onofre Units 2 and 3 Technical Specification 3/4.3.2, "Engineered Safety Features Actuation System (ESFAS) Instrumentation," to increase the interval for surveillance tests, which are currently performed every 18 months, to each refueling, nominally 24 months and maximum 30 months. As the result of modifying the surveillance interval, changes were made to the ESFAS instrumentation setpoints in Technical Specification 3/4.3.2, Table 3.3-4.

Finally, the amendments revised San Onofre Units 2 and 3 Technical Specification 3/4.3.3.5, "Remote Shutdown Instrumentation," to increase the interval for refueling interval surveillance tests which are currently performed every 18 months, to each refueling, nominally 24 months and maximum 30 months.

Date of issuance: June 8, 1990

Effective date: June 8, 1990

Amendment Nos.: 88 and 78

Facility Operating License Nos. NPF-10 and NPF-15: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** February 7, 1990 (55 FR 4275, 55 FR 4276 and 55 FR 4277). The staff requested additional information to supplement the original applications. This information did not affect the proposed no significant hazards consideration determination as previously noticed. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 8, 1990

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: December 1, 1988

Brief description of amendment: The amendment revised the Technical Specifications to reduce the reactor protection system reactor coolant low pressure trip setpoint from greater than or equal to 1983.4 psig to greater than or equal to 1900 psig and correspondingly modified the reactor protection system variable low pressure setpoint.

Date of issuance: June 4, 1990

Effective date: 60 days after issuance

Amendment No. 149

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 18, 1990 (55 FR 14518) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 4, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: February 28, 1990

Brief description of amendment: The proposed change revises the Technical Specification to add hafnium as an additional absorber material in the control blades.

Date of issuance: June 5, 1990

Effective date: June 5, 1990

Amendment No. 123

Facility Operating License No. DPR-28. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10546) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 5, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: March 9, 1990

Brief description of amendment: The amendment revises the Technical Specifications to add feedwater check valves to the Type C leakage test program. The revision also removes the requirement for leakage rate testing of two valves which are now outside the containment boundary.

Date of issuance: June 4, 1990

Effective date: At the time of shutdown for the 1990 scheduled refueling outage.

Amendment No. 122

Facility Operating License No. DPR-28. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 2, 1990 (55 FR 18415). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 4, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: September 30, 1988, as supplemented August 18, 1989.

Brief description of amendments: The amendments increase the allowable enrichment of fuel assemblies irradiated at NA-1&2 to 4.3 weight percent U-235.

Date of issuance: June 6, 1990

Effective date: June 6, 1990

Amendment Nos.: 127 & 111

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 16, 1988 (53 FR 46163) The August 18, 1989 letter provided supplemental information which did not change the staff's initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in an Environmental Assessment dated May 30, 1989 and a Safety Evaluation dated June 6, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Washington Public Power Supply System, Docket No. 50-397,Nuclear Project No. 2 Benton County, Washington

Date of application for amendment: October 27, 1989 and April 5, 1990

Brief description of amendment: This amendment revises Technical Specification Section 3/4.4.6, Reactor Coolant System Pressure/Temperature Limits by revising the curves which set forth the pressure/temperature limit lines. Specifically Figure 3.4.6.1 will be inserted in the technical specifications. Existing Figure 3.4.6.1-1 and Figure 3.4.6.1-2 will be removed. Existing Figure 3.4.6.1-1 had set limits applicable during the early life of the plant and was no longer applicable. References to the two figures in the index, in specification 3/4.4.6 and in the bases section 3/4.4.6 have been revised to refer to the single new figure. The bases have also been revised to reflect that nickel rather than phosphorous is the metal reported with reactor vessel toughness test results.

Date of issuance: June 14, 1990

Effective date: June 14, 1990

Amendment No.: 87

Facility Operating License No. NPF-21: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** December 27, 1989 (54 FR 53213) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 14, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Washington Public Power Supply System, Docket No. 50-397,Nuclear Project No. 2 Benton County, Washington

Date of application for amendment: February 5, 1990

Brief description of amendment: This amendment revises Technical Specification Section 3/4.8.1.1, "A.C. Sources," by revising surveillance requirements applicable to the emergency diesel generators. Changes are made to the specification of diesel generator testing frequency in accordance with the test schedule considerations set forth in Generic Letter 84-14.

Date of issuance: May 31, 1990

Effective date: May 31, 1990

Amendment No.: 85

Facility Operating License No. NPF-21: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10548) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 31, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2 Benton County, Washington

Date of application for amendment: February 27, 1990 and supplemented by letter dated April 13, 1990. The April 13, 1990 submittal did not substantially change the action noticed or affect the initial proposed no significant hazards determination.

Brief description of amendment: The amendment revises safety limits to be applicable during the sixth cycle of power operation. Specifically the amendment revises the index of the Technical specifications (TS) to include reference to four curves which are being added to the TS. The new curves provide limits for the maximum average planar heat generation rate (MALPHGR) and linear heat generation rate (LHGR)

for two new types of lead fuel assemblies to be inserted into the core. The amendment revises the definition of critical power ratio (CPR) given in TS 2.0. The revision makes the definition more general to include CPRs calculated for the new fuel designs in the lead fuel assemblies.

The amendment revises TS 3/4.2.1, "Average Linear Heat Generation Rate," to make the limiting conditions for operation, action statements, and surveillance requirements apply to the new fuel designs in the new lead fuel assemblies. Two new figures are added to TS 3/4.2.1 to set forth the MAPHLGR limits for the new lead fuel assemblies.

The amendment revises TS 3/4.2.3, "Minimum Critical Power Ratio," to incorporate new limits specific to cycle six.

The amendment revises TS 3/4.2.4, "Linear Heat Generation Rate," by rewording the limiting condition of operation to show how it applies to all fuel types in the core. Two new figures are added to give LHGR limits for the two new types of lead fuel assemblies.

TS 5.3.2 is revised to provide for the use of lead fuel assemblies.

Bases sections are revised to show the bases for the technical specifications as revised.

Date of issuance: May 31, 1990

Effective date: May 31, 1990

Amendment No.: 84

Facility Operating License No. NPF-21: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** April 4, 1990 (55 FR 12603) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 31, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2 Benton County, Washington

Date of application for amendment: March 30, 1990

Brief description of amendment: This amendment revised Technical Specification 3/4.8.1, "A.C. Sources," by replacing the surveillance requirements applicable to the fuel oil for the emergency diesel generators. Specifically, surveillance requirements 4.8.1.1.2.b, c, and d was replaced. The new tests should enhance the Supply System's ability to detect unsatisfactory fuel oil. This amendment permanently resolves the concern over fuel oil particulate testing that was addressed on a temporary basis by license amendment 76 issued by the NRC on February 22, 1990.

Date of issuance: June 4, 1990

Effective date: June 4, 1990

Amendment No.: 86

Facility Operating License No. NPF-21: Amendment changed the Technical Specifications.

Date of initial notice in **Federal Register:** May 2, 1990 (55 FR 18419) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 4, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Dated at Rockville, Maryland, this 21st day of June, 1990.

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. 90-14733 Filed 6-26-90; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 50-331]

Iowa Electric Light and Power Co., Central Iowa Power Cooperative, Corn Belt Power Cooperative, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption from the requirements of section III. A.6(b) of appendix J to 10 CFR part 50 to Iowa Electric Light and Power (the licensee) for the Duane Arnold Energy Center located at the licensee's site in Linn County, Iowa.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant a one-time relief from the schedular requirements of 10 CFR part 50, appendix J, secton III.A.6(b) to perform a Type A test every outage until two consecutive tests meet the acceptance criteria. This increased test frequency is required as a result of Type A test failures in 1985 and 1987, although the most recent test in 1988 was passed. The requested exemption would allow the licensee to resume its normal retest schedule in accordance with section III.D. of appendix J.

The proposed action is in accordance with the licensee's request for exemption dated April 2, 1990.

The Need for the Proposed Action

The proposed exemption would allow a one-time relief from performing a Type A test during the upcoming refueling outage and would enable the Duane Arnold Energy Center to resume the normal retest schedule specified in section III. D. of 10 CFR part 50, appendix J. The proposed exemption is needed to avoid unnecessary pressurization of the containment to perform a Type A test, as other measures proposed or implemented by the licensee will more effectively focus corrective actions on the previously identified sources of significant containment leakage. For the last three Type A tests conducted by the licensee, leakage from the main steam isolation valves (MSIVs) and feedwater check valves has been the major contributor to the total measured containment leakage rate. The licensee has developed extensive corrective action plans to improve the performance of these valves and will substantially modify the MSIVs during the next refueling outage. Therefore, the licensee has requested a one-time exemption from the schedular requirements of section III.A.6(b) of appendix J to 10 CFR part 50.

Environmental Impacts of the Proposed Action

The proposed exemption would allow a one-time relief from the schedular requirements to perform a Type A test every outage until two consecutive tests meet the acceptance criteria. Although two of the last three Type A tests were failures due to excessive leakage from specific valves, the last three Type A tests have demonstrated that there has been no significant degradation of containment integrity over the operating cycle. The licensee has implemented extensive corrective action plans to reduce the leakage from the identified valves. The proposed exemption will not negatively impact containment integrity and will not significantly change the risk from facility accidents. Therefore, post-accident radiological releases will not be significantly greater than previously determined, nor does the proposed exemption otherwise affect radiological plant effluents, or result in any significant occupational exposure. Likewise, the proposed exemption would not affect nonradiological plant effluents and would have no other environmental impacts. Therefore, the Commission concludes that there are no significant radiological or nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Because it has been concluded that there are no measurable impacts associated with the proposed exemption, any alternative to the exemption will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts attributed to the facility but would result in the expenditure of resources and increased radiation exposures without any compensating benefit.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Duane Arnold Energy Center, dated March 1973.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption from 10 CFR part 50, appendix J, dated April 2, 1990, which is available for public inspection at the Commission's Public Document room, 2120 L Street, NW., Washington, DC., and at the Cedar Rapids Public Library, 500 First Street SE., Cedar Rapids, Iowa 52401.

Dated at Rockville , Maryland, this 21st day of June 1990.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-14914 Filed 6-26-90; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Improved Light Water Reactors; Meeting

The Subcommittee on Improved Light Water Reactors will hold a meeting on July 10, 1990, room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: Tuesday, July 10, 1990—8:30 a.m. until the conclusion of business.

The subcommittee will review the NRC staff's proposal for the completeness of designs of the Evolutionary Light Water Reactors and Passive Plants.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, NUMARC, and EPRI regarding this issue.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Medhat EL-Zeftawy (telephone 301/492-9901) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: June 20, 1990.

Richard P. Savio,

Assistant Executive Director for Nuclear Reactors and Nuclear Waste.

[FR Doc. 90-14912 Filed 6-26-90; 8:45 am]

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Atomic Safety and Licensing Board

[Docket No. 030-20567; ASLBP No. 90-603-02-EA; Order Suspending License EA 89-257]

In the Matter of American Radiolabeled Chemicals, Inc., Before Administrative Judges: John H. Frye, III, Chairman, Gustave A. Linenberger, Frank F. Hooper

June 20, 1990.

Please take notice that a prehearing conference in the above captioned matter will take place at 1:30 p.m. Wednesday, July 18, 1990, in the NRC Hearing room, Fifth Floor, 4350 East-West Highway, Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

John H. Frye, III,

Chairman, Administrative Judge.

[FR Doc. 90-14913 Filed 6-26-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-440]

The Cleveland Electric Illuminating Co., et al.; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by the Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, and Toledo Edison Company (licensees) for an amendment to Facility Operating License No. NPF-58 issued to the licensees for operation of the Perry Nuclear Power Plant, Unit No. 1, located in Lake County, Ohio. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on December 11, 1987 (52 FR 47064).

The purpose of the licensees' amendment request was to revise the leakage limits for allowable leakage past the main steam isolation valves (MSIVs) and to delete the MSIV leakage control system (LCS). The staff denied the portion of the amendment request related to deletion of the MSIV LCS by letter dated March 18, 1988. The remaining portion of the amendment request would revise the allowable leakage limits for the MSIVs from twenty-five (25) standard cubic feet per hour (SCFH) for any one main steam line to one hundred (100) SCFH for all (four) main steam lines.

The NRC staff has advised the licensees that the proposed amendment is denied since the licensees have failed to provide sufficient information in

response to the Commission's request for additional technical information to support the application.

The licensees were notified of the Commission's denial of the proposed change by a letter dated June 20, 1990.

By July 27, 1990, the licensees may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or 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, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensees.

For further details with respect to this action, see (1) The application for amendment dated September 18, 1987, and (2) the Commission's letter to the licensees dated June 20, 1990.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 20th day of June 1990.

John N. Hannon,

Director, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-14910 Filed 6-26-90; 8:45 am]

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[Docket Nos. 50-254 and 50-265]

Commonwealth Edison Co.; Withdrawal of Application for Amendments to Facility Operating Licenses.

The United States Nuclear Regulatory Commission (the Commission) has granted the withdrawal of an amendment application dated January 9, 1989, filed by Commonwealth Edison Company (the licensee). The application requested amendments to Facility Operating License Nos. DPR-29 and DPR-30 for operation of Quad Cities Nuclear Power Station, Units 1 and 2, located in Rock Island County, Illinois.

The proposed amendment would have retyped the Operating Licenses for both units to improve legibility. The Commission issued a "Notice of Consideration of Issuance of Amendments to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing," which was published in the **Federal Register** February 22, 1989 (54 FR 7628).

By telephone call on May 30, 1990, the licensee withdrew the application for the proposed amendment, stating that some of the historical information will be eliminated in the retyped versions, and that the original licenses are sufficiently legible for their purpose. The Commission has considered the licensee's request and has determined that permission to withdraw the January 9, 1989 application for amendment should be granted.

For further details with respect to this action, see the application for amendment dated January 9, 1989. The above document is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Dixon Public Library, 221 Henepin Avenue, Dixon, Illinois 61021.

Dated: Rockville, Maryland this 7th day of June 1990.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Project Manager, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-14907 Filed 6-26-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-254 and 50-265]

Commonwealth Edison Co.; Quad Cities Nuclear Power Station, Units 1 and 2, Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-29 and DPR-30, issued to Commonwealth Edison Company (the licensee), for operation of the Quad Cities Nuclear Power Station, Units 1 and 2, located in Rock Island County, Illinois. The request for amendment was submitted by letter dated November 30, 1989.

The proposed amendment would extend the expiration date of these licenses to December 14, 2012, which is forty years from the date of issuance. These licenses currently expire February 15, 2007, which is forty years from issuance of the construction permits.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By July 27, 1990, 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 request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the Local Public Document Room located at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021. 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. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Richard F. Dudley, Jr.: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael I. Miller, Esquire, Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, 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 the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated November 30, 1989, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Dated at Rockville, Maryland, this 7th day of June 1990.

For the Nuclear Regulatory Commission.

Richard F. Dudley,

Acting Director, Project Directorate III-2, Division of Reactor Projects-III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-14908 Filed 6-26-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-05604, License No. 24-00188-02, EA 90-009]

St. Louis Testing Laboratories, Inc. St. Louis, Missouri; Order Imposing Civil Monetary Penalty

I

St. Louis Testing Laboratories, Inc. (Licensee) is the holder of Byproduct Material License No. 24-00188-02 issued by the Nuclear Regulatory Commission (NRC or Commission) on April 19, 1985. The license authorizes the Licensee to perform industrial radiography in accordance with the conditions specified therein.

II

An inspection of the Licensee's activities was conducted on December 20 and 21, 1989, and January 17, 1990. The results of this inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated March 6, 1990. The Notice states the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations. The Licensee responded to the Notice on April 4 and April 25, 1990. In its responses, the Licensee denied Violation I.A. and part 2 of Violation I.D. In addition, the Licensee protested the imposition of the civil penalty and requested remission.

III

After consideration of the Licensee's responses and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the appendix to this Order, that the violations occurred as stated and that the penalty proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 19 CFR 2.205, it is hereby ordered that:

The Licensee pay a civil penalty in the amount of $5,000 within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Inforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555.

V

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant

General Counsel for Hearings and Envorcement at the same address and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of NRC requirements as described in Violation I.A and part 2 of Violation 1.D set forth in the Notice referenced in section II above, which the licensee denied, and

(b) Whether on the basis of those violations, and the additional violations set forth in the Notice of Violation, which the licensee admitted, this Order should be sustained.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support.

Dated at Rockville, Maryland, this 20th day of June 1990.

APPENDIX

Evaluations and Conclusions

On March 6, 1990, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations identified during an NRC inspection. St. Louis Testing Laboratories, Inc. responded to the Notice in letters dated April 4, and April 25, 1990. In its response, the licensee denied Violation I.A and part 2 of Violation I.D. In addition, the licensee protested imposition of the penalty and requested remission of the civil penalty. The NRC's evaluation and conclusion regarding the licensee's requests are as follows:

Violation I.A.

Statement of Violation

10 CFR 20.101(b) provides, in part, that a licensee may permit an individual in a restricted area to receive a total occupational dose to the whole body greater than that permitted under paragraph (a) of 10 CFR 20.101 provided that during any calendar quarter the total occupational dose to the whole body shall not exceed 3 rems.

Contrary to the above, a radiographer employed by the licensee received a whole body occupational dose of 4.02 rems while performing radiography in a restricted area during the first calendar quarter of 1989.

Summary of Licensee's Response to Violation I.A.

The licensee denies this violation but agrees that the radiographer was exposed to an iridium-192 source. The licensee states that based upon its calculations, the dose received by the radiographer was within the 10 CFR part 20 limits. The licensee further states that the dose received by the badge and the dose received by the individual can vary, and that the licensee's calculations are more reliable than the badge readings.

NRC Evaluation of Licensee's Response

While the calculations conducted by the licensee and used to evaluate this exposure appear to indicate that neither the hands nor the head area were exposed in excess of the 10 CFR part 20 limit (18.75 rems and 3 rems, respectively), there are numerous unknowns involved in those calculations, including the licensee's assumption that the source was fully collimated by a tungsten collimator. Further, the licensee's calculations did not address the potential exposure to a part of the body other than the hands or head (i.e., chest area). According to the radiographer's statements to the inspector during the inspection, both the film badge and the dosimeter were worn in the chest pocket of his shirt. NRC must assume that any exposure to these devices was also received by the chest of the individual wearing the devices. The dosimeter (500 millirem) was off-scale and the film badge reports indicate 3.77 rems for that period and 4.02 rems for the quarter. The Commission considers a non-extremity, non-skin exposure to a significant volume (greater than or equal to one cubic centimeter) of tissue in excess of 3 rems in a calendar quarter to be a whole body exposure pursuant to 10 CFR 20.101. Thus, the NRC concludes that the radiographer received a 4.02 rem whole body exposure, which is in excess of the 3 rem limit allowed in 10 CFR 20.101(b), and that the violation occurred as stated in the Notice.

Violation I.B.

Statement of Violation

10 CFR 34.43(b) requires that the licensee ensure that a survey with a calibrated and operable radiation survey instrument is made after each exposure to determine that the sealed source has been returned to its shielded position.

Contrary to the above, on April 8, 1989, a radiographer failed to perform a survey with a calibrated survey instrument after each exposure to determine that the sealed source had been returned to its shielded position.

Summary of Licensee's Response to Violation I.B.

The licensee did not dispute this violation.

Violation I.C.

Statement of Violation

10 CFR 34.33(d) requires that if an individual's pocket dosimeter is discharged beyond its range, his film badge or TLD shall be immediately sent for processing.

Contrary to the above, on April 8, 1989, an individual's pocket dosimeter was discharged beyond its range and his film badge was not sent for processing until April 10, 1989.

Summary of Licensee's Response to Violation I.C.

The licensee does not deny this violation and does agree that the badge was not sent in immediately as required. However, the licensee further states that since the incident occurred on a weekend (Saturday), the badge was sent as soon as it could have been (Monday) and in that respect was sent immediately.

NRC Evaluation of Licensee's Response

The NRC staff does not agree with the licensee's opinion that Monday was the soonest that the badge could be sent for processing. The film badge vendor provides emergency processing of badges on the weekend upon request. In addition, the U.S. Postal Service Express Mail provides service between St. Louis and Chicago (the film badge vendor is located in a Chicago suburb) seven days a week including holidays. The inspector was able to identify several courier companies which would have accepted the badge on Saturday and delivered the badge early Monday morning. Had the licensee wanted to send the badge for processing on Saturday, numerous options were available for delivery to the film badge vendor. It is also noted in the inspection report that the badges were not sent in Monday until after the individual had completed additional radiographic work for that day. Further, when the badges were sent, they were sent via normal mail with no request for emergency processing. The NRC concludes that a

violation of 10 CFR 34.33(d) did occur as stated in the Notice.

Violation I.D.

Statement of Violation

10 CFR 20.403(b)(1) requires that each licensee, within 24 hours of discovery of the event, report any event involving licensed material possessed by the licensee that may have caused or threatens to cause exposure of the whole body of any individual to 5 rems or more of radiation; exposure of the skin of the whole body of any individual to 30 rems or more of radiation; or any exposure of the feet, ankles, hands, or forearms to 75 rems or more of radiation. Reports required by this section must be made to the NRC in accordance with 10 CFR 20.403(d)(2).

10 CFR 20.201(b) requires that each licensee make or cause to be made such surveys as (1) may be necessary for the licensee to comply with the regulations in 10 CFR part 20, and (2) are reasonable under the circumstances to evaluate the extent of radiation hazards that may be present. As defined in 10 CFR 20.201(a), "Survey" means an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions.

Contrary to the above: 1. On April 8–9, 1989, the licensee failed to make an adequate survey to ensure compliance with 10 CFR 20.403(b)(1) after an individual was exposed to a 91 curie iridium-192 source. Specifically, the licensee failed to evaluate the dose received by a radiographer after it was determined that the radiographer's 500 millirem dosimeter had gone off-scale.

2. On April 8, 1989, a radiographer entered an area containing an exposed 91 curie iridium-192 sealed source which, according to the information available at that time, may have caused a personnel radiation exposure in excess of that specified in 10 CFR 20.403(b)(1), and the licensee failed to report this event to NRC.

Summary of Licensee's Response to Part 1. of Violation I.D.

The licensee does not dispute part 1. of this violation.

Summary of Licensee's Response to part 2. of Violation I.D.

The licensee agrees that the incident was not reported to the NRC, but denies that this constitutes a violation. The licensee indicates that a report of the incident was not made at the time because the facts which the licensee believed to be true did not clearly reflect a reportable situation. The licensee further cites the erroneous initial reading of the film badge as support for having to rely on its own survey information in evaluating the incident, and states that its own survey information showed that the radiographer did not receive a dose above the authorized level.

NRC Evaluation of Licensee's Response

The initial reading of the film badge by the vendor was reported to the licensee as "faultily manufactured", indicating that the badge could not be read; however, the badge was not sent for processing until the Monday following the incident and therefore, the erroneous initial reading of the film badge could not have affected the licensee's decision regarding the reporting of the incident to NRC within the initial 24 hours. [In December 1989 the vendor, at the NRC's request, re-evaluated the badge and was able to determine an exposure of 3.77 rem.]

10 CFR 20.403(b)(1) requires that the licensee report any event that "*may have caused* or threatens to cause" exposure in excess of the limits stated therein [emphasis added]. Based on the information available to the licensee, within the initial 24 hours that the regulation allows for reporting, the licensee could not conclusively rule out the possibility that an exposure to the whole body of 5 rems or more had occurred. Therefore, in accordance with the regulation, the report was required. Specifically, as they were known at that time, the facts were that a radiographer had walked into a room where a 91 curie iridium-192 source was exposed and had worked in close proximity to the exposed source while he changed a film and prepared to do another radiograph before he realized that the source was fully exposed, and that the radiation exposure reading on his 500 millirem dosimeter was off-scale. Further, the calculations referenced by the licensee as the basis for not reporting the event did not address any areas of the body other than the head and hands. According to the film badge reading, the chest area of the body received exposure in excess of 3 rems. Depending upon the position of the radiographer at the time of this event, a portion of the body could have received an exposure greater than the 5 rems whole body referenced in the regulation. Also, the licensee's calculations were not conducted until several days after the incident had occurred and therefore, could not have been of any benefit to the licensee in determining whether or not this was a 24 hour reportable event. Based upon the significant potential for an exposure to the whole body in excess of 5 rems, the NRC conclusion is that part 2 of the violation occurred as set forth in the Notice.

Violation I.E.1.

Statement of Violation

License Condition No. 22 (Amendment No. 25) requires the licensee to conduct its program in accordance with statements, representations, and procedures contained in the application dated September 6, 1978, and letters dated June 26, 1984, April 2, 1985, with revised attachments, and April 15, 1989, with enclosed manuals.

Attachment 2 of the application dated September 6, 1978, states in Item 6(f) that the attached Radiographic Training Program will be followed in training radiographers and radiographer's assistants. The Radiographic Training Program states that any new equipment will be shown and demonstrated by the Radiation Safety Officer (RSO) or his assistant to all radiographers prior to their using the equipment. The use, application, safety precautions, and all pertinent information will be thoroughly explained. In addition, a semiannual refresher course will be given to all radiographers.

The letter dated April 15, 1988, (with enclosed manuals) states in an enclosed letter dated February 16, 1988, that the Amersham/TechOps "Operation and Maintenance Manual" for the Model 660 gamma radiography systems has been incorporated into the licensee's Operating and Emergency Procedures. The Amersham/TechOps "Operation and Maintenance Manual," Page 15, Item 7 states that to return the source to the exposure device [shielded position] after the desired exposure time has elapsed, the crank should be turned rapidly in the "RETRACT" (clockwise) direction until the crank will no longer move.

Contrary to the above: a. A radiographer who was involved in an overexposure incident with a TechOps Model 660 exposure device on April 8, 1989, had not been given a demonstration of this equipment by the RSO or his assistant prior to using it when it was new and had not received instruction in the use, application, and safety precautions for this equipment. In addition, semiannual refresher training had not been provided for eight radiographers during the period July 1988 through December 21, 1989.

b. On April 8, 1989, the radiographer attempted to retract the radiography source into a Model 660 exposure device by trying to turn the crank in the

counterclockwise direction. This caused the source to remain in the fully exposed position.

Summary of Licensee's Response to part a. of Violation I.E.1

The licensee did not dispute part a. of this violation.

Summary of Licensee's Response to part b. of Violation I.E.1

The licensee agrees that the radiographer failed to follow the manufacturer's instructions. However, the licensee does not believe that the reason the radiographer did not follow the instructions was because the radiographer had not been trained properly. The licensee contends that the radiographer had used the equipment on numerous occasions and knew how to properly use the equipment and that the radiographer was just careless and inattentive of his work.

NRC Evaluation of Licensee's Response

The NRC agrees with the licensee that the radiographer was careless. However, for whatever the reason, the individual did fail to follow the manufacturer's instructions in operation of the equipment which constitutes a violation as described above. The NRC concludes that this violation occurred as stated in the Notice.

Violation I.E.2.

Statement of Violation

License Condition No. 22 (Amendment No. 25) requires the licensee to conduct its program in accordance with statements, representations, and procedures contained in the application dated September 6, 1978, and letters dated June 26, 1984, April 2, 1985, with revised attachments, and April 15, 1989, with enclosed manuals.

Attachment 2 of the application dated September 6, 1978, states in Item 6(d) that the Radiographer's manual will be followed for personnel monitoring procedures. Section 3.5 of this manual requires that any time a person's pocket dosimeter is discharged beyond its range, the individual is to immediately cease radiographer operations.

Contrary to the above, on April 8, 1989, a radiographer's dosimeter was discharged beyond its range and the individual failed to cease radiographer operations immediately. Instead, the individual completed radiographer work on April 8, 1989, and performed additional radiographer work on April 10, 1989, before he was removed from radiographer operations.

Summary of Licensee's Response to Violation I.E.2.

The licensee does not dispute this violation.

Violation II (Violation not assessed a Civil Penalty)

Statement of Violation

License Condition No. 22 (Amendment No. 25) requires the licensee to conduct its program in accordance with statements, representations, and procedures contained in the application dated September 6, 1978, and letters dated June 26, 1984, April 2, 1985, with revised attachments, and April 15, 1989, with enclosed manuals.

The letter dated June 26, 1984, specifies that a designated individual will function as the Radiation Safety Officer (RSO) for the licensed program.

Contrary to the above, from December 1 through 5, 1989, an individual other than the designated individual authorized by the NRC functioned as the RSO for the licensed program.

Summary of Licensee's Response to Violation II

The licensee responded to this violation in a separate letter dated April 25, 1990. In that letter, the licensee did not dispute the violation.

Summary of Licensee's Request for Remission of the Civil Penalty

In addition to the arguments set forth above, the licensee concluded its response with a general statement indicating that in the future it will report to the NRC each event and let the NRC decide if it is reportable or not. The licensee further stated that the reporting requirements of 10 CFR part 20 are vague and require the licensee to make a judgment call regarding certain issues. The licensee also indicates that no attempt was made on its part to hide any actions from the NRC, and that it used its best judgment as required by the regulation. Finally, the licensee states that it is "disheartened" with a system that encourages an employee to intentionally create conditions detrimental to fellow workers and members of the public and does not hold that individual accountable and provides that individual protection.

Note: It apears that the licensee is referring to the former Radiation Safety Officer (RSO) employed at the facility until December 1989. The licensee further states that, in participating in allegations to NRC, it was almost as if the employee had reported himself to the NRC, and that this constitutes a strong reason for mitigation.

NRC Evaluation of Licensee's Request for Remission

The regulations in 10 CFR part 20 require licensees to report, within the first 24 hours, any incident that my have caused an exposure in excess of the regulatory limits. It is clear that certain events which meet specific criteria, as outlined in 10 CFR part 20, must be reported to the NRC. If the event does not clearly meet those criteria, and if it is not possible to conclusively rule out such an overexposure within the first 24 hours, then a conservative approach must be taken by the licensee by reporting the event. Moreover, although the NRC may provide some guidance on the reportability of a particular event, the decision to report an event is the responsibility of the licensee.

Regarding the licensee's statement that it did not try to hide anything from the NRC, this was never alleged by the Commission. Furthermore, this issue had no bearing on the proposed imposition of the civil penalty.

Regarding the licensee's statements on individual accountability, Section V.E. of the Enforcement policy provides for enforcement action against individuals in some circumstances; however, the Commission also holds its licensees accountable for the actions of their employees. NRC expects adequate management oversight of a licensee's program to determine whether individuals given responsibility for management of the program (i.e., the RSO) are conducting it in compliance with NRC rules and regulations and license conditions.

Concerning the licensee's argument that mitigation is appropriate because the employee's participation in allegations to the NRC were almost as if he had reported himself to the NRC, the Enforcement Policy does allow mitigation where the licensee self-identifies a violation, takes immediate action to correct the problem, and, if required, makes a prompt and complete report to the NRC. Since that did not occur in this case, mitigation based on this factor is not appropriate.

Conclusion

After reviewing the licensee's response to the violations and request for remission of the civil penalty, the NRC has determined that the violations occurred as stated and that the licensee has not provided any basis for reduction or remission of the civil penalty. Therefore, the proposed civil penalty in the amount of $5,000 should be imposed.

[FR Doc. 90-14915 Filed 6-26-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-29789 License No. 34-24871-01 EA 90-001]

Order Imposing Civil Monetary Penalty; Testmaster Inspection Co. Perrysburgh, OH

I

Testmaster Inspection Company (Licensee) is the holder of Byproduct Material License No. 34-24871-01 issued by the Nuclear Regulatory Commission (NRC or Commission) on June 8, 1987. The license authorizes the Licensee to perform industrial radiography in accordance with the conditions specified therein.

II

An inspection of the Licensee's activities was conducted on December 7-27, 1989. The results of this inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated February 13, 1990. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations. The Licensee responded to the Notice by letters dated March 7, 1990. In its responses, the Licensee admits the violation occurred, but requests mitigation of the proposed civil penalty.

III

After consideration of the Licensee's responses and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the appendix to this Order, that the violations occured as stated and that the penalty proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The Licensee pay a civil penalty in the amount of $3,750 within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasury of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issue to be considered at such hearing shall be:

Whether, on the basis of the violations admitted by the Licensee, this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 20th day of June 1990.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Material Safety, Safeguards, and Operations Support.

APPENDIX

Evaluations and Conclusions

On February 13, 1990, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations identified during an NRC inspection. Testmaster Inspection Company responded to the Notice in two letters, both dated March 7, 1990. In its response, the licensee admitted the violations occurred, but requested mitigation of the proposed civil penalty. The NRC's evaluation and conclusion regarding the licensee's requests are as follows:

Restatement of Violations

I. Violations Assessed a Civil Penalty

A. 10 CFR 34.43(b) requires the licensee to ensure that a survey with a calibrated and operable radiation survey instrument is make after each exposure to determine that the sealed source has been returned to its shielded position. The entire circumference of the radiographic exposure device must be surveyed. If the radiographic exposure device has a source guide tube, the survey must include the guide tube.

Contrary to the above:

1. On December 6, 1989, an individual failed to survey a radiographic exposuyre device after each radiographic exposure. As a result, the individual locked the exposure device without realizing that the source had remained in an exposed position.

2. On three occasions on December 7, 1989, an assistant radiographer failed to survey the circumference of the exposure device and the source guide tube after each radiographic exposure.

B. License Condition No. 18 requires that the licensee conduct its program in accordance with the statements, representations and procedures contained in the application dated March 6, 1987 and other referenced documents.

The application dated March 6, 1987 gives detailed instructions for safely operating a crank out type device (radiographic exposure device). Section 10.31(11) states: "at end of exposure, retract source into the exposure device by reversing the cranking action."

Contrary to the above, on December 6, 1989, an individual failed to retract the source into the exposure device at the end of an exposure.

C. License Condition No. 18 requires that the licensee conduct its program in accordance with the statements, representations, and procedures contained in the letter dated May 15, 1987 (identified as a letter dated May 18, 1987 on the license based on a receipt date stamp), and other referenced documents.

Paragraph 5.1.5 of the May 15, 1987 (date stamped May 18, 1987) letter requires, in part, that if an individual's pocket dosimeter goes off scale and if the source is in the exposed position, the Radiation Safety Officer or Assistant Officer shall be notified immediately for instructions pertaining to the conditions of the dosimeter and the source.

Contrary to the above, on December 6, 1989, the radiographer's and radiographer assistant's dosimeters were off scale, the source was in an exposed position, and neither the Radiation Safety Officer nor the Assistant Officer were notified immediately for instructions pertaining to the conditions of the dosimeters and the sources.

Collectively, these violations have been classified as a Severity Level III problem (Supplement VI)

Cumulative Civil Penalty-$3,750 (assessed equally among the three violations)

II. Violation Not Assessed A Civil Penalty

10 CFR 34.31(c) requires that records of field examinations of a radiographer's assistant be maintained for three years.

Contrary to the above, as of the date of the inspection, records of the field examination for a radiographer's assistant given on November 9, 1989, were not maintained.

This is a Severity Level IV violation (Supplement VI)

Summary of Licensee's Response. The licensee admitted that the violations in Section I of the Notice occurred as stated. It further stated that it makes continuous efforts to make radiographers and radiographer's assistants aware of the need for safe operation and compliance with procedures. It has established an incentive plan to emphasize the need for commitment to these objectives on the part of these individuals. The licensee stated that it achieved compliance with Violations I.A., I.B., and I.C. as of March 7, 1990.

The licensee also admitted the violation in Section II of the Notice occurred as stated. The licensee's president stated the violation occurred because he was not aware that records of field examinatins must be kept on file. The licensee submitted a form which will be used to document the results of these field examinations.

NRC Evaluation Of Licensee's Response. The licensee admitted the violations in Section I and the violation in Section II occurred as stated in the Notice. The effectiveness of the licensee's corrective action program, which requires that licensee personnel comply with procedures, will be reviewed during the next inspection.

Summary of Licensee's Request for Mitigation. The licensee provided four reasons why the civil penalty should not be imposed. These reasons are as follows:

1. The licensee reported the violation to the NRC as soon as it was identified.
2. The licensee recognized the need for stricter adherence to procedures, and implemented an incentive program.
3. The licensee has had a good performance record since obtaining its license and strives to comply with all regulations.
4. The licensee believes that imposition of a penalty of the amount proposed would be a detriment to a small company such as Testmaster Inspection.

NRC Evaluation of Licensee's Request for Mitigation. The NRC considered the licensee's prompt reporting when the amount of the proposed civil penalty was being determined. The NRC Enforcement Policy allows up to 50 percent mitigation for identification and prompt reporting. However, as explained in the February 13, 1990 letter, transmitting the Notice of Violation, in this case only 25 percent mitigation was allowed because the licensee discovered the problem, not by aggressive self-evaluation, but by an event which was self-disclosing.

Although the licensee states that it recognized the need for stricter compliance with procedures, its short term corrective actions were poor in that, the day after the December 6, 1989 event, another individual was observed making three radiographic exposures without surveying the circumference of the exposure device or the guide tube. Also, licensee management did not take steps to immediately inform other radiography personnel of the event and did not take steps to ensure that these individuals understood the importance of adequate surveys. As a result of the licensee's poor short term corrective action, the base civil penalty was escalated 50 percent.

The NRC agrees with the licensee's assertion that it had good past performance and, in recognition of this past performance the base civil penalty was mitigated by 100 percent. However, the base civil penalty was escalated by 50 percent because the licensee had prior notice of similar problems when it received NRC Information Notice 88-66, "Industrial Radiography Inspection and Enforcement." This Notice addressed failure to survey exposure devices to ensure that the radiography source was secured in a safe position.

In its response the licensee asserts that the imposition of a civil penalty would be a detriment to a small company. The NRC Enforcement Policy recognizes that a licensee's ability to pay is a proper consideration in determining the amount of a civil penalty and that the imposition of a civil penalty should not result in the termination of the licensee's business or a financial burden of such magnitude that a licensee is unable to safely conduct licensed activities. However, in its response, the licensee did not provide specific information or records which would enable the NRC to evaluate the licensee's financial status. Therefore, the licensee has not provided any basis for mitigation of the civil penalty based on financial hardship.

NRC Conclusion. The NRC has concluded that the violations occurred as stated and a sufficient basis for mitigation of the civil penalty was not provided by the licensee. Consequently, the proposed civil penalty of $3,750 should be imposed.

[FR Doc. 90-14911 Filed 6-26-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Environmental Assessment by the Office of Nuclear Reactor Regulation Relating to the Change in Expiration Date of Facility Operating License No. DPR-28 Vermont Yankee Nuclear Power Corp., for the Vermont Yankee Nuclear Power Station

Introduction

The Vermont Yankee Nuclear Power Station (VYNPS or the plant) is currently licensed for operation for 40 years commencing with the issuance of the construction permit. The license expires on December 11, 2007. By letter dated April 27, 1989, and as supplemented on June 23, 1989, Vermont Yankee Nuclear Power Corporation (VYNPC or the licensee) requested that the license expiration date for the plant be extended to March 21, 2012 or 40 years after the date of the issuance of the "low-power" operating license. The currently effective Facility Operating License (DPR-28 Admt. No. 5) was issued on February 28, 1973 and authorizes operation at full power, not to exceed 1593 megawatts thermal.

Need for the Proposed Action

The granting of this request would allow the licensee to operate the plant for approximately four years and three months beyond the current license expiration date, thus recapturing the construction period. This extension would also permit the plant to operate for the full forty year design basis lifetime, consistent with previously stated Commission policy (Memorandum dated August 16, 1982, from William J. Dircks, Executive Director for Operations, to the Commissioners) and as evidenced by the issuance of over 30 similar extensions to other licensees.

Environmental Impacts of the Proposed Action

The anticipated impact of the plant on the environment was evaluated in the Staff's Final Environmental Statement (FES) dated July 1972. Since that time its impact on the environment has been observed and recorded. In order to arrive at a finding on the acceptability of the plant's impact on the environment the following considerations will be evaluated in this assessment:

1. Radiological Impacts of the Hypothetical Design Basis Accident
2. Radiological Impacts of Annual Releases
3. Environmental Impact of Uranium Fuel Cycle
4. Non-Radiological Impacts
5. Plant Modifications
6. Conclusion on Environmental Impacts

Each of these considerations is sequentially discussed below.

1. Radiological Impacts of the Hypothetical Design Basis Accident (DBA)

The offsite exposure from releases due to postulated accidents has been analyzed by the licensee in the VYNPS Final Safety Analysis Report (FSAR). The results of these analyses were within the bounds of 10 CFR part 100 and thus acceptable. This type of analysis is a function of four parameters: (1) The types of accidents postulated, (2) the radioactivity release calculated for each accident, (3) the assumed meteorological conditions, and (4) population distribution versus distance from the plant. The staff has concluded that neither the types of accidents nor the calculated radioactivity releases will change through the proposed amendment term. Furthermore, the site meteorology as defined in the FSAR is essentially a constant and consideration herein is therefore unwarranted. Thus, the one parameter that is dependent on the proposed license amendment is the population size and distribution, as it could vary with time. The population size and distribution within a 50-mile radius of the plant has been studied four times between 1969 and 1986. The 1986 study projected population changes through the year 2012. There are no significant land use changes expected during the amendment term that could affect offset dose calculations. The results of the 1986 study and those of the other studies are presented in Figure 1, *Summary of Population Projections for Vermont Yankee* derived from the licensee's April 27, 1989 letter.

None of the projected changes in population between the years 2007 and 2012, the added term of the proposed license amendment, will significantly impact any accident analysis previously calculated. Furthermore, the current exclusion area boundary, low population zone and nearest population center distance are not likely to be significantly changed through the amendment term from those originally and currently used by the VYNPS. Accordingly, we conclude that the proposed license amendment will not significantly change previous conclusions on the potential environmental effects of offsite releases from postulated accidents.

The staff stated in their proposed no significant hazards consideration determination (54 FR 31120) dated July 26, 1989, that the change in expiration date to March 21, 2012 is consistent with current NRC policy and the originally engineered design life of the plant, i.e. 40-years of operation. Age related degradation was the only mechanism we identified in the above mentioned determination that could impact the probability or consequences of a previously evaluated accident. However, due to design conservatism, maintenance and surveillance programs, inspection programs and the Plant Technical Specifications, the proposed additional four years and three months of operation will have no significant impact on safety. That is, regardless of the age of the facility, the above mentioned programs and Technical Specifications ensure that components, systems and structures will be refurbished or replaced to maintain their requisite safety function.

2. Radiological Impacts of Annual Releases

a. Onsite Doses

The VYNPS occupational (onsite) exposure trend and comparative magnitude with the industry's average boiling water reactor (BWR) site, based on average annual exposures in terms of person-rem per five-year period, is shown in Figure 2, *Vermont Yankee* versus *BWR Industry—Five-Year Occupational Exposure Averages*, taken from the licensee's April 27, 1989 letter. The data in Figure 2, in regards to both total dose and average dose per worker, indicate that the licensee has implemented a very successful program under 10 CFR Part 50, Appendix I "As Low as Reasonably Achievable" (ALARA) guidelines. Given the licensee's continued implementation of its ALARA program and the plant's historically stable occupational exposure, we conclude that the average of the 1987 and 1988 exposures of about 220 person-rem, cumulative, will serve as an upper limit in future years of normal operation, i.e. non-reload years and years without major maintenance such as fuel pool modifications. During the proposed amendment term, it is assumed that the VYNPS will continue to operate with an approximately 18-month long fuel cycle. This would result in a maximum of four refueling outages during the proposed amendment term. Using annual exposures of 700 and 220 person-rem for years with and without typical refueling outages, respectively, it is estimated that the total occupational exposure during the proposed amendment term will be about 3,000 person-rem. This averages to about 600 person-rem per year. This projection is consistent with the plant's recent five-year average occupational exposure level of 534 person-rem per year. All other BWR plants had a five-year average of 691 person-rem per year in this same time period. The expected exposures for the plant are in accordance with 10 CFR Part 20 and Regulatory Guide 8.8.

b. Offsite Doses

Appendix I guidelines on ALARA were briefly discussed above in regard to on-site doses; however, these guildelines also apply to releases that could cause offsite doses. In addition, routine releases to the environment are governed by 10 CFR 20.1(c), which states that such releases should be as low as reasonably achievable. Appendix I is more explicit in that it esablishes radioactive design/dose objectives for liquid and gaseous offsite releases including iodine/particulate radionuclides. Figure 3, *Summary of OffSite Appendix I Radiation Exposure Limits and Actual Performance Data* (as millirem) provides a comparison of Appendix I limits with consolidated plant operating data. This figure is derived from the licensee's letter of April 27, 1989. A review of the values in Figure 3 indicates that the actual performance of the plant to control and limit liquid gaseous radioactive releases has been well within the Appendix I radiation exposure limit objectives. There have been no radioactive liquid releases in nine of the past twelve years and none in the past seven years. The plant has demonstrated its ability to hold up, process and reuse waste water to a degree that has not necessitated the routine release of significant radioactive liquid wastes. The licensee has demonstrated, see Figure 3, that the gaseous Radwaste System is capable of limiting releases associated with both routine operations and special occurrences, such as reloads, to a fraction of ALARA design objectives.

Based on the continued operation of the plant's existing liquid and gaseous radwaste systems, we conclude that the anticipated offsite doses during the period covered by the proposed license amendment would remain a fraction of 10 CFR Part 50, Appendix I limits.

The volume of solid waste at the VYNPS has been below that generated at the average BWR. In addition, the licensee has committed to further reduce the amount generated in future years.

The staff concludes that the releases from the plant, both onsite and offsite, have remained within the bounds of the FES and have complied with the applicable portions of 10 CFR Parts 20 and 50 as discussed above. As a consquence, we would expect releases during the proposed license extension period to remain within these bounds.

3. Environmental Impact of the Uranium Fuel Cycle

The VYNPS reactor contains 368 fuel bundles. Until recently, the plant has operated in a twelve to fourteen month fuel cycle. However, due to improved fuel designs, the plant is currently in an eighteen month fuel cycle. This has reduced the demand for fissile uranium.

The additional period of reactor opeation requested by the licensee will increase the need for fissile uranium over the plant's operating lifetime. The licensee assumes that operation will continue utilizing an eighteen month fuel cycle. There will be a cumulative increase in the use of uranium due to the lengthened period of operation. This cumulative increase will have an insignificant environmental impact. The total number of fuel assemblies that will be used and that will need to be stored if the amendment request is granted is 3,545. The number predicted in the FES in 1972 for 40 years of operation was 3,500 fuel assemblies. Thus, the prediction made in the FES and the current prediction are substantially similar as regards uranium use and the need for storage or disposal of spent fuel.

The environmental impacts, both radiological and non-radiological, attributable to transportation of fuel and waste to and from plant sites, with respect to normal conditions of transport and possible accidents in transport have been assessed in several generic environmental impact statements. These assessments represent the contribution of such transportation to annual environmental costs including dose per reactor year to exposed transportation workers and to the general public. These annual environmental costs, which are displayed in Table S-4 of the Commission's regulations, 10 CFR 51.52, would not be changed by the extended period of operation.

Based on the above, the staff concludes that there are no significant changes in the environmental impact related to the uranium fuel cycle due to the proposed extended operation of the VYNPS.

4. Non-Radiological Impacts

The major non-radiological impact of the plant on the environment is through the operation of the plant's cooling systems. There are three modes of operation of the Condenser Cooling System. This is the system that transports waste heat from the condensers to the heat sink. There are two heat sink paths at VYNPS, first to the Connecticut River then indirectly to the atmosphere or directly to the atmosphere. The three modes of operation are: open, closed and hybrid cycle. The open cycle uses the river for waste heat discharge, the closed cycle uses mechanical draft cooling towers and transports heat directly to the atmosphere and the hybrid cycle is a combination of the open and closed cycles. The use of the open cycle is the normal mode of operation. However, occasionally, the requirements of the National Pollution Discharge Elimination System (NPDES) permit enforce use of the other two modes in order to reduce thermal effects on the Connecticut River. This permit is issued by the State of Vermont and is renewed on a five-year cycle.

The NPDES permit requirements serve to protect fish, organisms in the river and migratory wildlife that use the river from the impacts of plant operations. In addition, the permit insures satisfaction of the pertinent requirements of the federal Clean Water Act and the State of Vermont water quality standards. The impacts of the plant on the river and the environment have been within the predictions of the FES, have remained stable during plant operation and the licensee is required to continue to monitor the non-radiological impacts by the terms of the Operating License requirements and the NPDES permit.

Other non-radiologial impacts of the proposed license extension involve the following factors:

a. Short-Term Use Versus Long-Term Productivity

The plant has maintained an average capacity factor of about 70% since start of commercial operation. The average for all U.S. nuclear plants is 60%. The plant has maintained an excellent safety record during this period and the NRC systematic assessment of licensee performance (SALP) gave the VYNPS a high rating. We stated in our March 7, 1990 Final SALP Report, covering the most current interval, in regards to license performance, "During the assessment period, few challenges to personnel and safety systems occurred, and the plant experienced a low transient rate. Overall performance was indicative of a management involvement in plant operations that was comprehensive and strongly oriented toward nuclear safety. Technical competence and management strengths were most notable in the functional areas of plant operations, maintenance and surveillance, engineering and technical support, and emergency preparedness." The staff expects that the level of performance noted above will continue during the remaining license period and during the requested extension period.

b. Irreversible and Irretrievable Commitment of Resources

The FES stated in its dicussion of this factor, in regard to the initial plant construction as well as projected operation, "These commitments are small compared with the need for production of essential electrical energy for this area." While the population in the immediate plant vicinity has not experienced growth, the service area demand has increased since issuance of the operating license. While there have been modifications to the plant since the original license was issued, these have involved only readily available construction materials, not materials in short supply. The staff has not determined the need for any significant resource commitments necessary as a result of the proposed license extension.

c. Historic Preservation

Through the requirements of Section 106 of the National Historic Preservation Act, the staff has an obligation to make a determination as to the impact of the proposed license extension on any significant nearby historical or archeological sites. The FES contained a Section entitled, *Historic Significance* that dealt with this issue in depth. The Governor Hunt house, located at the site boundary, is the only nearby identified historical site. The Vermont Archeological Society and excavations for site construction did not identify any archeological materials nor fossils of any significance. The licensee in their letter of April 27, 1989 identified the Governor Hunt house as the only nearby historic property. The licensee has restored this property and has pledged to maintain it. In addition, the licensee investigated other historic sites in the three state area for any signs of deterioration caused by plant operation; no evidence of such deterioration was discovered. Based on the above, the staff has determined that the proposed license extension would have no adverse affect on any historic property.

5. Plant Modifications

Many modifications and design changes have taken place at the plant since original construction. Those that involve an unreviewed safety question or require a change to the Technical Specifications are submitted to the NRC for prior review and approval. This review includes a determination of the environmental effects of the proposed change. As provided by our regulations, other changes may be implemented by the licensee without prior NRC approval. The licensee must first perform a safety evaluation for any such changes, subject to NRC inspection and audit. The licensee also submits such changes to the staff in an Annual Report, which is reviewed by the staff. A complete detailed description of all the changes including a summary of the safety evaluation is included in the annual update of the Final Safety Analysis Report (FSAR). The staff reviews the FSAR updates to verify that the changes did not require prior NRC review and approval. In general, these changes improve plant reliability and do not adversely impact the environment. While it is recognized that the requested license extension will possibly result in further routine design changes and modifications similar in nature to those already conducted, it is not anticipated that these would have any adverse impact on the environment.

6. Conclusion on Environmental Impacts

Based on the above, we conclude that the proposed extension will not have any significant impact on the environment.

Alternatives to the Proposed Action

One alternative to the proposed license extension would be to deny the application. This would require the plant to shut down upon expiration of the current operating license. Another alternative, presented by the licensee in their April 27, 1989 submittal and derived from a study performed by the Amos Tuck Business School at Darmouth College, would be the construction of an oil-fired plant to replace the electrical generation of the VYNPS. The licensee performed an analysis of the costs of power generation and the environmental impacts of such an oil-fired plant. During the period of the license extension, the licensee stated that VYNPS would provide power to the public for about $443 million less than the alternative. The alternate plant would have many, real, adverse environmental impacts that would contribute to the amount of acid rain in the Northeast region of the United States and to global warming. The staff examined the licensee's cost analysis and concluded that it is reasonable. Based on the above considerations, the staff concludes that continued operation of the plant for the license extension period remains the most economical and environmentally attractive alternative.

Alternative use of Resources

This action does not involve the use of resources not previously considered in the FES in relation to the operation of the plant.

Agencies and Persons Consulted

The Commission made a proposed determination that the amendment involves no significant hazards consideration which was published in the Federal Register (54 FR 31120) on July 26, 1989. The State of Vermont has intervened in the issuance of this proposed license amendment; the action has resulted in ongoing contacts between the staff and the State.

Basis and Conclusion for Not Preparing an Environmental Impact Statement

The conclusions of the July 1972 Final Environmental Statement remain valid and operation of the plant has demonstrated that its impact on the environment has been within the bounds predicted by the FES. The staff has reviewed the proposed license amendment relative to the requirements set forth in 10 CFR part 51. Based on this assessment, the staff concludes that there are no significant radiological or non-radiological impacts associated with the proposed action and that the issuance of the proposed license amendment will have no significant impact on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31, an environmental impact statement need not be prepared for this action.

Dated at Rockville, Maryland this 21st day of June 1990.

For the Nuclear Regulatory Commission.

Richard H. Wessman,

Director, Project Directorate I-3, Division of Reactor Projects I/II.

FIGURE 1.—SUMMARY OF POPULATION PROJECTIONS FOR VERMONT YANKEE

Area (mile)	Original FSAR (1969) 2000	Revised FSAR (1982) 2000	Current 2007	ER (1971) 2010	Current 2012	Difference between (as percent)			
						Current 2012 and orig. FSAR 2000	Current 2012 and rev. FSAR 2000	Current 2012 and ER 2010	Current 2012 and 2007
* 0–5	12,566	10,076	11,112	11,770	11,823	−5.9	+17.3	+0.4	+6.3
5–10	35,811	33,164	27,704	22,130	28,556	−20.2	−13.8	+29.0	+3.0
0–10	48,377	43,240	38,816	33,900	40,379	−16.5	−6.6	+19.1	+4.0
10–50	N/A	1,761,410	1,440,243	1,672,200	1,467,232	N/A	−12.2	−16.8	+1.9
0–50	N/A	1,804,650	1,479,059	1,706,100	1,507,611	N/A	−11.6	−16.4	+1.9

* Reflects Low Population Zone.

FIGURE 2.—VERMONT YANKEE VS BWR INDUSTRY FIVE-YEAR OCCUPATIONAL EXPOSURE AVERAGES

Five-year interval	Total dose (person rem)		Average dose per worker (rem)	
	Vermont Yankee	BWRs	Vermont Yankee	BWRs
1974–1978	275	690	0.45	1.05
1975–1979	466	687	0.60	0.91
1976–1980	703	815	0.70	0.87
1977–1981	767	891	0.70	0.85
1978–1982	756	896	0.71	0.80

FIGURE 2.—VERMONT YANKEE VS BWR INDUSTRY FIVE-YEAR OCCUPATIONAL EXPOSURE AVERAGES—Continued

Five-year interval	Total dose (person rem)		Average dose per worker (rem)	
	Vermont Yankee	BWRs	Vermont Yankee	BWRs
1979–1983	994	969	0.76	0.80
1980–1984	880	1,067	0.76	0.80
1981–1985	823	936	[b] 0.59	([c])
1982–1986	914	[a] 915	[b] 0.57	([c])
1983–1987	934	[a] 817	[b] 0.51	([c])
1984–1988	534	[a] 691	[b] 0.36	([c])

Source: "Occupational Radiation Exposure at Commercial Nuclear Power Reactors," NUREG-0713, Volume 6, 1984.
[a] INPO performance indicators for the U.S. Nuclear Utility Industry.
[b] Plant records.
[c] Not available.

FIGURE 3.—SUMMARY OF OFF-SITE APPENDIX I RADIATION EXPOSURE LIMITS AND ACTUAL PERFORMANCE DATA

[as mrem]

Parameter	Appendix I limits	1976 Vermont Yankee radwaste system design review limit	Maximum dose received from plant since 1976
Liquid	≦3	2.2×10^{-2}	5.0×10^{-4}
Gaseous	≦15	1.2	0.32
Iodine and Particulates	≦15	3.8	0.32

[FR Doc. 90-14909 Filed 6-26-90; 8:45 am]

BILLING CODE 7590-01-M

OVERSIGHT BOARD

Oversight Board Meeting

AGENCY: Oversight Board.

ACTION: Meeting.

DATES: Thursday, July 12, 1990, 2 p.m.–3 p.m.

ADDRESSES: General Services Administration Auditorium, 1st Floor, 18th and F Streets NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Diane M. Casey, Vice President, Office of Public Affairs, Oversight Board, 1777 F St. NW., Washington, DC 20232, (202) 786-9672.

SUPPLEMENTARY INFORMATION:

Discussion Agenda

* Enforcement efforts taken to fight fraud in thrift institutions.

* Other issues to be determined immediately following the open meeting the Board will meet in closed session.

Dated: June 20, 1990.

Diane M. Casey, V.P.,

Office of Public Affairs.

[FR Doc. 90-14858 Filed 6-26-90; 8:45 am]

BILLING CODE 2222-01-M

Regions 1 and 4 Advisory Board Meetings

AGENCY: Oversight Board.

ACTION: Meeting notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is for Regional Advisory Board meetings for Regions 1 and 4. The meetings are open to the public.

DATES: The meetings are scheduled as follows: 1. July 13, 1990, 9 a.m. to 3 p.m., New York, NY, Region 1 Advisory Board 2. July 17, 1990, 9 a.m. to 3 p.m., Dallas, TX, Region 4 Advisory Board

ADDRESSES: The meetings will be held at the following locations:

1. New York-Federal Reserve Bank of New York, 59 Maiden Lane, 15th Floor Conference room, New York, NY.
2. Dallas-Southern Methodist University, Cox School of Business, Georges Auditorium in the Arthur Anderson Gallery, 6212 Bishop Street, Dallas, TX.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Office of Advisory Board Affairs, Oversight Board/RTC, 1777 F Street, NW., Washington, DC 20232, 202/786-9675.

SUPPLEMENTARY INFORMATION: Section 501(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (the ACT), Public Law No. 101-73, 103 Stat. 183, 382-383, directed the Oversight Board to establish one national advisory board and six regional advisory boards. Announcement on the establishment of the advisory boards was published in the **Federal Register**, Vol. 54, p. 48172, dated November 21, 1989.

The advisory boards are to provide information and recommendations on the policies and programs for the sale or other disposition of real property assets of depository institutions, the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before August 9, 1989, the date of the enactment of the ACT, and for which the Resolution Trust Corporation (RTC), has been appointed as the conservator or receiver since January 1, 1989 and for three years from the date of enactment of the Act.

Purpose

The purpose of the regional advisory boards are to provide advice to the RTC. This is the first of a series of meetings to be held throughout the country.

Agenda

A detailed agenda will be available at the meeting. Discussions will center around the activities of that particular region as related to the disposition of affordable housing and appraisal policies and marketing efforts. In addition, there will be briefings on RTC activity and policy updates pertaining to that region.

Statements

Interested persons may present data, information, or views in writing on the issues pending before the advisory board. Persons wishing to make oral statements are to notify the contact person 15 days before each meeting giving a brief statement on the nature of the remarks. Time permitting, oral comments will be limited to five minutes.

All meetings are open to the public. Seating is available on a first come basis.

Dated: June 21, 1990.

Diane M. Casey,

Vice President, Office of Public Affairs.

[FR Doc. 90-14857 Filed 6-26-90; 8:45 am]

BILLING CODE 2222-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

National Advisory Committee on Semiconductors (NACS) Meeting

The purpose of the National Advisory Committee on Semiconductors, is to devise and promulgate a national semiconductor strategy, including research and development. The implementation of this strategy will assure the continued leadership of the United States in semiconductor technology. The Committee will meet on July 12, 1990 at 1555 Wilson Blvd., Suite 700, Arlington, Virginia. The proposed agenda is:

(1) Briefing of the Committee on its organization and administration.

(2) Briefing of the Committee by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed studies regarding semiconductors.

(3) Discussion of Working Group Actions.

A portion of the July 12th sessions will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552 b.(c)(1), (2), and (9)(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552 b.(c)(6).

Because of advanced security arrangements, persons wishing to attend the open portion of the meeting should contact Mrs. Hazel Houston, at (703) 528-6222, prior to July 11, 1990. Mrs. Houston is also available to provide specific information regarding time, place and agenda for the open session.

Dated: June 22, 1990.

Damar W. Hawkins,

Executive Assistant, Office of Science and Technology Policy.

[FR Doc. 90-14970 Filed 6-25-90; 9:14 am]

BILLING CODE 3170-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Medicare Prospective Payment System

[RFP 01-91-ProPAC]

Research Support Services.

Category: H (Expert and Consultant Services).

The Prospective Payment Assessment Commission (ProPAC) is seeking an contractor to perform background research and empirical analysis tasks to support its evaluation and monitorying of Medicare's prospective payment system (PPS) for inpatient hospital care. One contractor is being sought to provide these services for a period of one year with options to extend the contract for up to two additional years. Work will be completed on a task order basis under a fixed-price requirements type contract. The contractor selected will have a demonstrated knowledge of Medicare, PPS, and other health care financing and delivery issues and experience managing this type of project. The contractor will also have statistical and economic analysis skills. The contractor shall have expertise in a variety of topics related to the health care industry, including issue related to payments for a provision of services, as well as effects on beneficiaries. RFP-01-91-ProPAC will be issued on or about July 2, 1990. Interested sources must submit a written request for a copy of this RFP.

Donald A. Young,

Executive Director.

[FR Doc. 90-14806 Filed 6-26-90; 8:45 am]

BILLING CODE 6820-SW-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-28136; File No. SR-BSE-90-08]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Boston Stock Exchange, Inc. Relating to Fees for Fingerprint Processing and Access Card

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 13, 1990, the Boston Stock Exchange, Inc. ("BSE" 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 BSE, pursuant to rule 19b-4 of the Act, submitted a proposed rule change to amend its plan for fingerprinting pursuant to rule 17f-2(c) under the Act and to add access card/lamination and photo processing to its fees that are passed-through to its floor members. The Exchange proposes to (1) Increase its fingerprint processing fees from $17.00 to $23.00 per fingerprint card processed, and (2) to pass through to the floor members, as separate charges on their monthly billings, the current $7.50 access card fee and the $6.00 lamination and photo fee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Effective March 1, 1990, the Federal Bureau of Investigation increased its processing charge for user-fee applicant fingerprint cards from $14.00 to $20.00 per fingerprint card submitted. The Exchange states that this $6.00 increase requires an equivalent increase in the BSE's charge for the fingerprint cards from $17.00 to $23.00. The BSE's current $3.00 charge per fingerprint card for Exchange processing will, however, remain constant.[1]

[1] Pursuant to rule 17f-2(c) under the Act, the Exchange filed a plan with the Commission allowing the BSE to act as a processor of fingerprints for its members and others.

In addition, the Exchange incurs a $7.50 processing charge per access card, and a $6.00 charge for lamination and photo processing which it does not currently charge to BSE floor members. The Exchange, therefore, proposes to pass through these fees to the floor members as separate charges on their monthly billings.

According to the Exchange, the statutory basis for the proposed rule change is section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among BSE members and issuers and other persons using its facilities. In addition, the Exchange believes that the proposed changes are consistent with section 6(b)(5) of the Act in that it enables the Exchange to recover its costs with respect to the processing of fingerprint cards and access cards.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act 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.

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 at 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 BSE. All submissions should refer to File No. SR-BSE-90-08 and should be submitted by July 18, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 20, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-14825 Filed 6-26-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28133; File No. SR-MSE-90-4]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Partially Approving Proposed Rule Change Relating to Listing Guidelines Applicable to Index Warrants

On March 13, 1990, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b-4 thereunder,[2] a proposed rule change to allow the MSE to list and trade warrants based upon foreign and domestic stock market indexes.

The proposed rule change was published in Securities Exchange Act Release No. 27868 (April 2, 1990), 55 FR 12977. No comments were received on the proposed rule change.[3]

The Exchange proposes to adopt rule 8 under article XXVIII of its rules for the purpose of providing listing guidelines applicable to index warrants traded on the MSE. The proposed warrants will be cash-settled, unsecured obligations of the issuer with a term of at least one year. Only index warrants based on established domestic and foreign market indexes will be accepted for listing. The Exchange plans to list both American-style warrants (*i.e.*, exercisable throughout their life) and European-style warrants (*i.e.*, exercisable only upon their expiration date). Upon exercise, or at the warrant's expiration date if not exercisable prior to such date, the holder of a warrant resembling a put option would receive payment in U.S. dollars to the extent that the underlying index has declined below a pre-stated cash settlement value, while the holder of a warrant resembling a call option would receive payment in U.S. dollars to the extent that the index has increased above the pre-stated cash settlement value. Warrants that are "out-of-the money" at the end of the stated term will expire worthless.

The MSE will consider listing stock index warrants on a case-by-case basis. Because the warrants will represent unsecured obligations of their issuer, only warrants issued by companies that exceed the Exchange's financial listing criteria and that have assets in excess of $100 million will be eligible for listing. The Exchange proposes to require a minimum public distribution of one million warrants together with a minimum of 400 public holders, and an aggregate market value of $4 million. In addition, warrants which have been approved for trading on another national securities exchange that satisfy the proposed guidelines will be eligible for listing.

The Exchange also proposes to amend rule 3 of article XLVIII to apply the options suitability standard to index warrant recommendations made by members and member organizations. The suitability standard will require that the member or member organization have reasonable grounds to believe that the recommended index warrant transaction is suitable for the customer and that the customer is able to evaluate and bear the risks of the proposed transaction. The Exchange will recommend that index warrants be sold only to options-approved accounts.

Finally, the Exchange also proposes to amend rule 6 of article XLVIII so that a Senior Registered Options Principal ("SROP") or Registered Options Principal ("ROP") will be required to approve and initial any discretionary index warrant transaction on the day it is executed. The SROP shall review the acceptance of each discretionary account to determine that the ROP had a reasonable basis to believe that the customer was able to understand and bear the risks of the proposed transaction, thus ensuring that investors will be offered an explanation of the special characteristics and rules applicable to the trading of index warrants.

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19-4 (1989).

[3] The MSE also proposed to trade index warrants based on the Nikkei stock index that satisfy the proposed guidelines. The Commission is still considering this part of the MSE proposal and the Exchange consented to this deferral.

Index warrants represent another of the innovative methods of raising capital recently developed by business enterprises. Whereas corporations once raised capital solely through simple debt or equity offerings with the occasional sale of convertible debt or preferred stock, today a wide range of financing alternatives, such as commodity- or stock-index-linked debt, foreign currency denominated debt, and currency warrants are available. Index warrants are yet another example of this phenomenon. These innovative financing techniques not only allow business entities to raise capital more easily and less expensively, but also provide investors with an opportunity to obtain differential rates of return on a small capital outlay if the underlying stock index moves in a favorable direction within a specified time period.[4]

Because index warrants are derivative in nature and closely resemble index options, the Commission has several specific concerns regarding these instruments. In particular, index warrants raise customer suitability, disclosure, and secondary market trading issues that must be addressed adequately. In this regard, the MSE has proposed safeguards that are designed to meet these investor protection concerns, including the application of options suitability standards to index warrant recommendations and the requirement that discretionary orders in index warrants be approved on the day entered by a SROP or a ROP.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[5] More specifically, the Commission believes that index warrants are an innovative financing technique designed to allow an issuer to offer debt at a lower rate than in a straight debt offering in return for assuming some overall market volatility risk. Purchasers of the warrants can use them to hedge against or speculate on stock market fluctuations.

The Commission believes that the MSE has designed reasonable rules and procedures to address the special concerns attendant to the secondary trading of index warrants. By imposing special suitability, disclosure, and compliance requirements on index warrants, the MSE has addressed potential public customer problems that could arise from the derivative nature of these products. The Commission believes further that it is appropriate to apply options suitability and risk disclosure standards to index warrants. More specifically, index warrants possess the same basic risks as index options. Consequently, disclosure of these risks should be similar to that required for options trading. Similarly, applying existing options suitability procedures to index warrants should ensure that only customers with an understanding of options and the financial capacity to bear the risks attendant to options trading will be trading index warrants on their broker's recommendations. Moreover, a SROP or ROP will be required to review any discretionary index warrant transaction on the day the transaction is executed. As with index options, this procedure will ensure that appropriate supervisory personnel at member firms review these transactions promptly. In addition, the MSE will recommend that index warrants be sold only to options-approved accounts. Finally, the listing standards for index warrants should ensure that only substantial companies capable of meeting their warrant obligations issue the index warrants.

Although the proposed rule change provides a structure for listing index warrants, the MSE will be required to submit, as separate 19(b)(2) rule changes for Commission approval, each specific stock index that it proposes to trade warrants on. The rule change will provide the Commission with an opportunity to determine, among other things, if a particular index raises the potential for manipulation or other trading abuse concerns.[6] In addition, the Commission is examining the experience with stock index warrants currently trading on the American Stock Exchange, and may in the future recommend modifications to the standards contained in this filing for a specific stock index warrant.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the portion of the proposed rule change (SR-MSE-90-4) that establishes a regulatory framework to permit the trading of index warrants based on both domestic and foreign market indexes be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Dated: June 19, 1990

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-14826 Filed 6-26-90; 8:45 am]

BILLING CODE 8010-01-M

[4] Of course, if the underlying stock index moves in the wrong direction or fails to move in the right direction within the specified time period, the warrant will expire worthless and the investor will have lost his entire investment.

[5] 15 U.S.C. 78(f)(b)(5) (1982).

[6] In this connection, the Commission notes that for warrants based on a foreign stock index, adequate surveillance sharing agreements between the MSE and foreign market(s) where the index's component stocks are traded would be a necessary prerequisite to deter and detect potential manipulations or other improper or illegal trading.

[7] 15 U.S.C. 78s(b)(2) (1982).

[8] 17 CFR 200.30-3(a)(12) (1989).

[Rel. No. 34-28134, File No. SR-PSE-89-31]

Self-Regulatory Organizations: Pacific Stock Exchange Inc.; Order Approving Proposed Rule Change Relating to Disclosure of Financial Arrangements of Market Makers and Trading Rules Applicable to Financially Affiliated Market Makers

On November 17, 1989, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change that, that among other things, (1) Requires market makers to disclose to the Exchange financial arrangements by which they extend credit to other market makers, and (2) amends the trading rules applicable to market makers that have financing arrangements between themselves and market makers that are joint account participants.

The proposed rule change was published in Securities Exchange Act Release No. 27553 (December 20, 1989), 54 FR 53409. No comments were received on the proposed rule change.

The PSE proposes to amend its rules relating to disclosure of financial arrangements of market makers and its trading rules applicable to two groups of financially-affiliated market makers: (1) Market makers that have financing arrangements between themselves and (2) market makers that are joint account participants. In addition, the Exchange proposes to revise and redesignate, without substantively changing, except to the extent noted below, PSE rules governing joint accounts and market maker orders executed by floor brokers.

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

Currently, market makers that receive financing are required to disclose their financing arrangements to the Exchange. The Exchange proposes to amend section 82 of rule VI to require that market makers who extend credit to other market makers must also disclose such financial arrangements to the Exchange.[3] The Exchange believes that requiring both creditor and debtor market makers to disclose financing arrangements will enhance the Exchange's awareness of existing financial arrangements between market makers. The Exchange believes that the identification of market makers that have financial arrangements between themselves will enhance the Exchange's enforcement capabilities with regard to the trading practices of financially affiliated market makers and will increase the financial risk monitoring ability of the Exchange.

The Exchange also proposes to amend its rules to clarify the PSE's policy with regard to the concurrent representation of orders by market makers that have financing arrangements between themselves. Specifically, the PSE proposes that market makers with financial arrangements between themselves may not concurrently, either by themselves or via a floor broker, bid, offer, purchase, sell, or enter orders in the same options series. Such market makers, however, would be permitted to trade concurrently in a trading crowd, in options overlying the same security, provided it was a different options series. The Exchange believes that this arrangement will prevent financially affiliated market makers from dominating a particular transaction or trading with each other. The arrangement, however, does permit both market makers to participate in transactions in the same options class, and accordingly, the Exchange believes that the liquidity of the trading crowd would not be compromised.

Additionally, the PSE proposal provides that the primary appointment of a market maker may not include trading posts that constitute the primary appointment of any market maker with whom he has an existing financial arrangement.

[3] The Exchange proposes that each market maker that participates in a financing arrangement must inform the Exchange of the name of the creditor or debtor and the terms of such arrangement. Additionally, the proposal requires that the Exchange be informed immediately of any intention of any party to terminate or change any such arrangement, or to issue a margin call. Moreover, market makers shall be required to submit monthly reports on Exchange forms of any use or extension of credit.

The Exchange also proposes similar restrictions for joint account participants. Specifically, the Exchange proposes to delete the portion of existing PSE Rule VI, Section 81 that pertains to joint accounts and establish a new provision, Rule VI, Section 90 that deals solely with joint accounts. The PSE proposal for joint account participants places the same restrictions on market makers who belong to joint accounts as the PSE is proposing for market makers that have financial arrangements between themselves. Specifically, such joint account participants: (1) May not trade concurrently in a trading crowd, either by themselves or via a floor broker, in the same options series; and (2) may not include in their primary appointment trading posts which constitute the primary appointment of any market maker with whom they have a joint account. The remainder of the provisions in proposed rule VI, section 90 restates language proposed to be deleted from rule VI, section 81, commentaries .02–.13 dealing with joint accounts.

Finally, the Exchange proposes to establish a new rule VI, section 91 entitled "Market Maker Orders Executed by Floor Brokers." This new rule revises and replaces Options Floor Procedure Advice B-6 as part of the Exchange's ongoing endeavor to place the substance of the Floor Procedure Advices in the appropriate section of the PSE Rules. The new rule, among other things, precludes a market maker and any order on his behalf represented by a floor broker from being concurrently represented at a trading post. Additionally, the rule provides instructions on how market maker order tickets should be prepared and the procedures for the execution of such market maker orders by floor brokers in the trading crowd.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6,[4] and the rules and regulations thereunder. Specifically, the Commission finds that requiring full disclosure by market makers of financing arrangements between themselves and restricting the activities of financially-affiliated market makers is designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principals of trade. By requiring all market makers to disclose their financial arrangements with other market makers, the Commission believes the Exchange will be better able to identify and deter potential trading abuses among affiliated market makers. In addition, the Exchange's ability to monitor the financial condition of its market makers will be enhanced.

[4] 15 U.S.C. 78f (1982).

The Commission also believes that it is appropriate for the Exchange to amend its rules to clarify the trading rules regarding the concurrent representation of orders by financially affiliated market makers, be they joint account participants or parties to a financing agreement. The Commission believes that the Exchange, in designing the proposed trading restrictions, has appropriately balanced the objective of deterring fraudulent and manipulative conduct with the desire to allow market makers to participate freely in trading crowds to provide maximum market depth and liquidity. In addition, the Commission believes that prohibiting affiliated market makers from having the same option class as their primary appointment is an additional measure to prevent collusive trading. The Commission does not believe the proposal is too restrictive on the trading activities of financially-related market makers because the proposal will permit affiliated market makers to participate in the same trading crowd as long as they do not trade in the same options series. Accordingly, the Commission believes that market makers will continue to respond to trading conditions in all options classes on the Exchange floor, and, accordingly, the proposal should not impact the liquidity of the Exchange. Moreover, the Commission believes that the imposition of restrictions on financially-affiliated market participants that are intended to preclude collusive trading activity increases public confidence in the markets.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change (SR-PSE-89-31) hereby is approved.

Dated: June 19, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-14827 Filed 6-26-90; 8:45 am]

BILLING CODE 8010-01-M

[5] 15 U.S.C. 78s(b)(2) (1982).

[6] 17 CFR 200.30-3(a)(12) (1989).

[Rel. No. IC-17543; No. 811-5081]

Bradford Linked Life Variable Account

June 19, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order pursuant to section 8(f) of the Investment Company Act of 1940 (the "1940 Act") declaring that Applicant has ceased to be an investment company.

Applicant: Bradford Linked Life Variable Account.

Relevant 1940 Act Sections: Section 8f and rule 8(f)-1 thereunder

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Dates: The application was filed on January 29, 1990.

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 no later than 5:30 p.m. on July 16, 1990. 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 personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, Bradford Linked Life Variable Account, c/o Bradford National Life Insurance Company, One Lexington Green, 3191 Nicholasville Road, Lexington, Kentucky 40503.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Nancy M. Rappa (202) 272-2622, or Special Counsel Heidi Stam (202) 272-2060, (Office of Insurance Products, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The 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) 258-4300).

Applicant's Representations

1. The Applicant, a unit investment trust registered under the 1940 Act, is a separate account of Bradford National Life Insurance Company. A registration statement on Form S-6 was filed on March 26, 1987 (File No. 33-12907) for individual flexible premium variable life insurance policies. The registration statement was never declared effective and therefore no public offering was commenced.

2. The Applicant has never had any assets nor has it ever had any securityholders.

3. The Applicant never incurred any debts or other liabilities.

4. The Applicant is not a party to any litigation or administrative proceeding.

5. The Applicant is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-14829 Filed 6-26-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17544; No. 811-3233]

Bradford Variable Account I

June 19, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order pursuant to section 8(f) of the Investment Company Act of 1940 (the "1940 Act") declaring that Applicant has ceased to be an investment company.

Applicant: Bradford Variable Account I.

Relevant 1940 Act Sections: Section 8(f) and rule 8f-1 thereunder.

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application was filed on January 29, 1990.

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 no later than 5:30 p.m. on July 16, 1990. 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 personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, Bradford Variable Account I, c/o Bradford National Life Insurance Company, One Lexington Green, 3191 Nicholasville Road, Lexington, Kentucky 40503.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Nancy M. Rappa (202) 272-2622, or Special Counsel Heidi Stam (202) 272-2060, (Office of Insurance Products and Legal Compliance, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The 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) 258-4300).

Applicant's Representations

1. The Applicant, a non-diversified investment company registered under the 1940 Act, is a separate account of Bradford National Life Insurance Company. A registration statement on Form N-1 was filed on May 21, 1981 (File No. 2-72425) for individual flexible purchase payment deferred variable annuity contracts. The registration statement was never declared effective and therefore no public offering was commenced.

2. The Applicant has never had any assets nor has it ever had any securityholders.

3. The Applicant never incurred any debts or other liabilities.

4. The Applicant is not a party to any litigation or administrative proceeding.

5. The Applicant is not now engaged, or does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-14828 Filed 6-26-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17542; 811-4174]

Challenger Income Shares, Inc.; Application for Deregistration

June 19, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for exemption under the Investment Company Act of 1940 ("Act").

Applicant: Challenger Income Shares, Inc.

Relevant 1940 Act Section: Section 8(f) and Rule 8f-1 thereunder.

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Dates: The application on Form N-8F was filed on February 28, 1990.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 18, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; Applicant, c/o ABD Securities Corporation, One Battery Park Plaza, New York, New York 10004, with a copy to Matthew G. Maloney, Esq., Dickstein, Shapiro & Morin, 2101 L Street NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272-2511 or Max Berueffy, Branch Chief, (202) 272-3016.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a diversified open-end management company organized under the laws of the state of Maryland in 1984. Applicant registered with the SEC by filing a Notification of Registration on December 14, 1984. On February 21, 1985, Applicant filed a Registration Statement pursuant to section 8(b) of the Act.

2. On October 13, 1989, Applicant's Board of Directors adopted a Plan of Liquidation and Dissolution ("Plan"). Proxy materials relating to the Plan were distributed to stockholders on November 15, 1989. On December 1, 1989 Applicant held a Special Meeting of Stockholders at which the stockholders voted unanimously to approve the Plan.

3. As of December 15, 1989, Applicant had 2,826,224.208 shares outstanding with a net asset value per share of $10.12 for a total asset value of $28,610,639.40. Pursuant to the Plan, Applicant liquidated its securities and on December 18, 1989 distributed to its shareholders of record $10.11 per share in cash. On February 21, 1990, Applicant distributed to its shareholders of record as of December 18, 1989 $0.004 per share in cash, which amount represented all the remaining assets of the Applicant.

4. Applicant incurred $19,272 in expenses in connection with the liquidation. These expenses included legal, accounting and tax advice, the costs of preparing, printing and mailing proxy materials and the costs of filings with federal and state regulatory agencies. All these expenses were borne by the Applicant.

5. As of the time of filing of this application, Applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs. On February 26, 1990, Applicant filed Articles of Dissolution with the Maryland Department of Assessments and Taxation.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-14831 Filed 6-26-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-17540; File No. 812-7516]

First Investors Life Insurance Company, et al.

June 19, 1990.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: First Investors Life Insurance Company ("First Investors Life"), First Investors Life Variable Annuity Fund C ("Separate Account C"), First Investors Corporation ("FIC"), and First Investors Management Company, Inc. ("FIMCO").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 26(a)(2) and 27(c)(2) of the 1940 Act.

Summary of Application: Applicants seek an order to permit the deduction of mortality and expense risk charges from the assets of Separate Account C pursuant to certain variable annuity contracts.

Filing Date: The Application was filed on May 4, 1990 and amended on June 11, 1990.

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 Commission no later than 5:30 p.m. on July 16, 1990. Request a hearing in writing, giving the nature of your interest, the reasons 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 Commission, along with proof of service by affidavit or, in the case of attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Applicants, c/o Richard H. Gaebler, Esq., President, First Investors Life Insurance Company, 120 Wall Street, New York, New York 10005.

FOR FURTHER INFORMATION CONTACT: Wendy B. Finck, Staff Attorney, at (202) 272-3045, or Heidi Stam, Assistant Chief, Office of Insurance Products and Legal Compliance, at (202) 272-2060 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from either the Public Reference Branch in person or the Commission's commercial copier (800) 231-3282 (in Maryland, (301) 258-4300).

Applicant's Representations

1. First Investors Life, a wholly-owned subsidiary of First Investors Consolidated Corporation, is a stock life insurance company organized under the laws of the State of New York in 1962. First Investors Life established Separate Account C on December 21, 1989. Separate Account C funds flexible purchase payment deferred annuity contracts and single purchase payment immediate annuity contracts (collectively, the "Contracts").

2. FIC, a wholly-owned subsidiary of First Investors Consolidated Corporation is a broker-dealer registered under the Securities Exchange Act of 1934. FIC will be the principal underwriter of the Contracts.

3. FIMCO, an investment adviser registered under the Investment Advisers Act of 1940 and a broker-dealer registered under the Securities Exchange Act of 1934, is the investment

adviser to First Investors Life Series Fund ("Life Series"), the various series of which are the funding vehicle for the corresponding series of Separate Account C. All of FIMCO's common stock is owned by First Investors Consolidated Corporation.

4. Separate Account C will be divided, initially, into seven subaccounts, each of which will invest in a separate series of Life Series. Life Series is a no-load, open-end, diversified, series management investment company registered under the 1940 Act.

5. The initial purchase payment for any Contract providing for the payment of a deferred benefit will be at least $2,000. The minimum purchase payment for a Contract providing for the payment of an immediate benefit will be $3,000. Subsequent purchase payments under a Deferred Variable Annuity must be at least $200.

6. An annual administrative charge of $7.50 will be deducted annually by First Investors Life from the accumulated value of single payment contracts which have an accumulated value of less than $1,500 due to a partial surrender. This administrative charge, which is the only such charge, is for the purpose of compensating First Investors Life for expenses involved in administering small accounts. The Applicants will rely on Rule 26a-1 under the 1940 Act for the necessary exemptive relief to charge the administrative charge.

7. First Investors Life or FIC, as the Underwriter, makes a deduction of sales charges from the purchase payment, ranging from 7.25 percent of the purchase payment for investments or less than $25,000 to 1.50 percent of the purchase payment for investments of $1 million or more.

8. In addition to the administrative charge and the sales charge, a risk charge (the "Risk Charge") will be assessed daily against Separate Account C at an annual rate of 1.0 percent (approximately 0.60 percent for mortality risk and approximately 0.40 percent for expense risks). The Risk Charge is guaranteed and may not be increased by First Investors Life. Applicants state that the mortality component (approximately .60 percent) of the Risk Charge is intended to compensate First Investors Life for assuming the risk that its actuarial estimate of mortality rates may prove erroneous, i.e., the risk that a beneficiary may receive annuity benefits for a period longer than those reflected in the Contract's guaranteed annuity rates or may die at a time when the death benefit guaranteed by the Contract is higher than the accumulation value of the participant's Contract. The expense component (approximately .40 percent of the Risk Charge) is intended to compensate First Investors Life for assuming the risk that administrative charges, which are guaranteed not to increase, may prove insufficient to cover expenses actually incurred.

9. Applicants represent that the level of the Risk Charge is reasonable in relation to the risks assumed by Applicants under the Contracts and within the range of industry practice for comparable annuity contracts. This representation is based upon First Investors Life's analysis of publicly available information about such contracts, taking into consideration the particular annuity features of comparable contracts, including such factors as current charge levels, charge level guarantees or annuity rate guarantees, the manner in which the charges are imposed, and the markets in which the contracts are offered. Applicants state that First Investors Life has incorporated the identity of the products analyzed and its analysis, including its methodology and results, into a memorandum which it will maintain and make available to the Commission or its staff upon request.

10. Applicants represent that the sales charge assessed in connection with sales of the Contracts may be insufficient to cover all costs of distributing the Contracts. Applicant state that if the actual amounts derived from the sales charge prove insufficient to cover the actual costs of distributing the Contracts, the deficiency will be met from the general corporate funds of First Investors Life or of FIC, including amounts derived from risk charges not otherwise applied to the expenses the risk charges were designed to defray.

11. Applicants represent that First Investors Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the separate account and the owners of the Contracts, and state that the basis for this conclusion has been incorporated in a memorandum which First Investors Life will maintain and make available to the Commission or its staff upon request.

12. Applicants represent that the assets of Separate Account C will be invested only in management investment companies which undertake, in the event they should adopt a plan for financing distribution expenses pursuant to rule 12b-1 under the 1940 Act, to have such plan formulated and approved by its board of directors (or board of Trustees), the majority of whom are not "interested persons" of the management investment company within the meaning of section 2(a)(19) of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-14830 Filed 6-26-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17541; No. 811-5080]

Whitehall Linked Life Series Fund Co.

June 19, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Whitehall Linked Life Series Fund Co.

Relevant 1940 Act Sections: Order requested under section 8(f).

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application was filed on May 23, 1990.

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 July 16, 1990. 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 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 or the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, Whitehall Limited Life Series Fund Co., c/o Bradford National Life Insurance Company, One Lexington Green, 3191 Nicholasville Road, Lexington, KY 40503.

FOR FURTHER INFORMATION CONTACT: Wendy B. Finck, Staff Attorney (202) 272-3045, or Heidi Stam, Assistant Chief (202) 272-2060 (Office of Insurance Products and Legal Compliance, 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. On March 26, 1987, Applicant filed Form N-8A to register under the 1940 Act as a management investment company. On the same date, the Applicant also filed a registration statement on Form N-1A. The registration statement was never declared effective.

2. Applicant never made a public offering of its securities, and does not propose to make a public offering or to engage in business of any kind other than to effect a winding-up of its affairs.

3. As of May 23, 1990, the Applicant has no assets, has not transferred any assets to another entity, has no outstanding debts or liabilities, and is not a party to any litigation or administrative proceeding.

4. There have been no securityholders of Applicant at any time.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-14832 Filed 6-26-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 162—Aviation Systems Design Guidelines for Open Systems Interconnection (OSI); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the Special Committee 162, Aviation Systems Design Guidelines for Open Systems Interconnection (OSI) Meeting to be held July 16-18 in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks, (2) approval of minutes of the eleventh meeting held April 25-27, (3) reports of working group activities, (4) presentation of AMTS proposal by Upper Layer Working Group, (5) reports of related activities being conducted by other organizations, (6) working groups meeting in separate sessions, (7) other business, and (8) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 20.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 90-14881 Filed 6-26-90; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 165—Minimum Operational Performance Standards for Aeronautical Mobile Satellite Services; Meedting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the Special Committee 165, Minimum Operational Performance Standards for Aeronautical Mobile Satellite Services Meeting to be held July 23-25 in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC, commencing at 9:30 a.m. (The meeting on July 25 is scheduled to end at noon.)

The agenda for this meeting is as follows: (1) Chairman's remarks; (2) approval of minutes of the fourth meeting; (3) working group reports: (a) Equipment Standards Working Group report, (b) Operation and Implementation Working Group report, and (c) Service Performance Criteria Working Group report; (4) review of second draft to the AMSS MOPS; (5) review first draft of Service Performance Criteria Working Group report; (6) working group sessions; (7) assignment of tasks; (8) other business; and (9) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 20.

Geoffery R. McIntyre,

Designated Officer.

[FR Doc. 90-14882 Filed 6-26-90; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Executive Committee Meeting; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, U.S.C., appendix I), notice is hereby given for the Executive Committee Meeting to be held July 19 in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks and introductions, (2) approval of May 24 Executive Committee Meeting minutes, (3) executive director's report, (4) special committee activities report for May-June, (5) report of the Fiscal and Management Subcommittee, (6) consideration for approval of special committee reports, (7) consideration of proposals to establish new special committees, (8) other business, (9) date and place of next meeting.

Attendence is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 20.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 90-14883 Filed 6-26-90; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Fond Du Lac County, WI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Fond du Lac County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Ms. Jackie Lawton, Environmental Coordinator, Federal Highway Administration, 4502 Vernon Boulevard, Madison, Wisconsin 53705–4905. Telephone (608) 264–5967.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Wisconsin Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to improve United States Highway (USH) 151 from a point near the intersection of USH 151 and County Trunk Highway D, southwest of the City of Fond du Lac, to a point near the intersection of USH 151 and State Trunk Highway 149, northeast of the City of Fond du Lac, a distance of about 10 miles.

Improvemants to the USH 151 corridor are considering necessary to provide for existing and projected traffic demand, to reduce congestion in the City of Fond du Lac, and to reduce accidents. Alternatives to be considered include: (1) Taking no action, (2) improvements on the existing alignment, and (3) improvements on new location. Studies will also include design variations of roadway grade, grade-separation structures and at-grade intersections with local roads.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies. A series of public meetings will be held in the project vicinity during 1990 and 1991. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. A formal scoping meeting is not scheduled at this time.

To ensure that a full range of issues related to this proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 15, 1990.

James E. St. John,

Division Administrator, Madison, Wisconsin.

[FR Doc. 90–14868 Filed 6–26–90; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement: Marin County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Marin County, California.

FOR FURTHER INFORMATION CONTACT: Mr. C. Glenn Clinton, District Engineer, Federal Highway Administration, P.O. 1915, Sacramento, California 95812–1915, Telephone (916) 551–1314.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to repair a 600-foot section of State Route 1 (PM 9.2) between Muir Beach and Stinson Beach along the Pacific Coast in Marin County. The proposed project is to reestablish the now closed roadway linking the San Francisco Bay Area with the semi-rural recreational area of west Marin consisting of the Point Reyes National Seashore, the Golden Gate National Recreation Area, the Gulf of the Farallones National Marine Sanctuary, and Mount Temalpais State Park.

In addition to the No-Build Alternative, the following alternatives are being considered:

1. Relocate roadway onto stable material by realigning the road approximately 250 feet inland and disposing of nearly 500,000 cubic yards of cut material by the following disposal methods or combination thereof:

a. End-dumping into the ocean;

b. Haul material to some off-site landfill disposal area;

c. Haul and deposit material at an upland parkland disposal site, and

d. Place Lone Tree Creek into a culvert, and deposit material into the old creek area.

2. Construct an interim project to relocate the road inland enough to provide for a two-lane travelway.

3. Construct a side-hill viaduct or other engineered structure.

4. Construct a coastal highway bypass on a new alignment.

5. Relinquish the portion of State Route 1 from Muir Beach to Stinson Beach and adopt the current detour, Panoramic Highway, into the State Highway System.

The proposed scoping process includes the distribution of a Notice of Preparation to each responsible and trustee agency pursuant to the California Environmental Quality Act, publication of the Notice of Intent in the Federal Register, and scoping meetings to be held during the first two weeks of August 1990. The exact date, time, and place of these meetings will be published in advance in local newspapers.

Other public meetings will also be held during the course of the environmental studies to inform and receive input from the public. A draft environmental impact statement will be circulated for public and agency review and comment followed by a formal public hearing. Public notice will be given of the time and place of the meetings and hearing.

To ensure that the full range of issues related to this proposed action are addressed and all signficant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided in this document.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovermental consultation of Federal Programs and activities apply to this program)

Issued on June 19, 1990.

C. Glenn Clinton,

District Engineer, Sacramento, California.

[FR Doc. 90–14867 Filed 6–26–90; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

June 21, 1990.

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, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.

Form Number: 8752.

Type of Review: New Collection.
Title: Required Payment or Refund Under Section 7519.
Description: This form is used to verify that partnerships and S corporations that have made a section 444 election have correctly reported the payment required under section 7519.
Respondents: Farms, Businesses or other for-profit.
Estimated Number of Respondents: 55,000.
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping—5 hours, 1 minute
Learning about the law or the form—1 hour, 5 minutes
Preparing, copying, assembling, and sending the form to IRS—1 hour, 14 minutes
Frequency of Response: Annually.
Estimated Total Recordkeeping/Reporting Burden: 403,700 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 3001, New Executive Office Building, Washington, DC 20503.

Irving W. Wilson, Jr.,
Departmental Reports, Management Officer.

[FR Doc. 90-14877 Filed 6-26-90; 8:45 am]
BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

June 21, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: None.
Type of Review: New collection.
Title: Corporate Tax Gap Focus Group Interviews.
Description: These focus groups are being conducted to assist the Service in determining the magnitude of the corporate tax gap. The data collection will be considered in determining more effective methods in conducting corporate exams.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 400.
Estimated Burden Hours Per Respondent: 3 hours.
Frequency of Response: One-time focus groups.
Estimated Total Reporting Burden: 153 hours.
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Millo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Irving W. Wilson, Jr.,
Departmental Reports, Management Officer.

[FR Doc. 90-14878 Filed 6-26-90; 8:45 am]
BILLING CODE 4830-01-M

Internal Revenue Service

Privacy Act; Computer Matching Programs

AGENCY: Internal Revenue Service; Treasury Department.

ACTION: Notice.

SUMMARY: Pursuant to the Computer Matching and Privacy Protection Act of 1988, Public Law 100-503, October 18, 1988, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of the conduct of Internal Revenue Service's computer matching programs. In accordance with various provisions of section 6103 of the Internal Revenue Code of 1986, the computer matching programs provide Federal, State, and local agencies with tax information from IRS records to assist them in administering the programs and activities described hereafter. The matching programs substantially prevent or reduce fraud and abuse in certain government programs and facilitate the settlement of government claims while protecting the privacy interest of the subjects of the match.

EFFECTIVE DATE: July 27, 1990.

ADDRESSES: Inquiries may be mailed to Director, Office of Disclosure, Internal Revenue Service, P.O. Box 388, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: John Fuhrman, Chief, FOI/Privacy Section, Internal Revenue Service, (202) 566-3359.

SUPPLEMENTARY INFORMATION: The nature, purposes, and authorities for IRS computer matching programs are as follows:

Matches Conducted Pursuant to IRC 6103(l)(3)

Upon written request, the Service may disclose to the head of a Federal agency, which makes, guarantees, or insures certain Federal loans, whether an applicant for such a loan has a tax delinquent account.

The disclosure of a Tax Delinquent Account Status Indicator under IRC 6103(l)(3) is made only for the purpose of, and to the extent necessary in, determining the creditworthiness of the applicant for the loan in question. The information provided is extracted monthly from the Internal Revenue Service Individual Master File (Treas./IRS System 24.030 (IMF)) located at the Internal Revenue Service, Martinsburg Computing Center (MCC), in Martinsburg, West Virginia. The IMF contains tax accounts of individuals.

There are currently no (l)(3) matching agreements in effect.

Matches Conducted Pursuant to IRC 6103(l)(7)

The Service is required, upon written request, to disclose current information from returns with respect to unearned income to any Federal, State, or local agency administering certain federally approved programs to provide:

(a) Aid to Families with Dependent Children;
(b) Medical assistance;
(c) Supplemental Security Income benefits;
(d) Social security benefits;
(e) Unemployment compensation;
(f) Food Stamps; or
(g) State administered supplementary payments.

Information is disclosed by the Service only for the purpose of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under the aforementioned programs.

The return information is extracted on a monthly basis from the Internal Revenue Service Wage and Information Returns Processing File (Treas./IRS System 22.061 (IRP)) for the latest processing year. This file contains information returns filed by payers of income such as interest and dividends reported on Forms 1099-INT and 1099-DIV.

Federal agencies participating in (l)(7) matches are the Social Security

Administration and Health Care Financing Administration.

Matches Conducted Pursuant to IRC 6103(l)(12)

The Service shall, upon written request from the Commissioner of Social Security (SSA), disclose to SSA available filing status and taxpayer identity information from the IMF (Treas./IRS System 24.030) relating to whether any medicare beneficiary identified by SSA was a married individual for any specified year after 1986, and, if so, the name of the spouse of such individual and such spouse's TIN, but only for purposes of, and to the extent necessary in, determining the extent to which any medicare beneficiary is covered under any group health plan. This section provides further for the redisclosure of certain taxpayer identity information by SSA to Health Care Financing Administration (HCFA) upon the written request of the Administrator of HCFA. With respect to the information redisclosed by the Commissioner of SSA, the Administrator of HCFA may further disclose said information to certain qualified employers and group health plans.

The information provided is extracted monthly from the IMF.

The Federal agencies participating in (l)(12) computer matches are SSA and HCFA.

Matches Conducted Pursuant to IRC 6103(m)(2)

The Service may, upon written request, disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer to collect or compromise a Federal claim against the taxpayer in accordance with sections 3711, 3717, and 3718 of title 31 of the United States Code. This section also provides for the redisclosure of a taxpayer's mailing address to a consumer reporting agency, but only to allow for the preparation of a commercial credit report on the taxpayer for use by the requesting Federal agency in accordance with the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982.

The information provided is extracted monthly from the IMF (Treas./IRS System 24.030).

Federal agencies participating in (m)(2) matches are:

Army & Air Force Exchange Service (AAFES)
Army Finance & Accounting Center (AFAC)
Equal Employment Opportunity Commission (EEOC)
Health Resources & Services Administration (HRSA)
Health Care Financing Administration (HCFA)
Housing & Urban Development (HUD)
Marine Corps Finance Center (MCFC)
National Institute of Health (NIH)
Navy Finance Center (NFC)
Navy Resale & Services Support Office (NRSSO)
Public Health Service (PHS)
Railroad Retirement Board (RRB)
Social Security Administration (SSA)
U.S. Army Community & Family Support Center (ACFSC)
U.S. Coast Guard (USCG)
Department of Education (ED)
Department of Health & Human Services (HHS)
Department of Justice—Civil Division (DOJ)
Department of State (DOS)
Department of Veterans Affairs (VA)

Matches Conducted Pursuant to IRC 6103(m)(4)

Upon written request from the Secretary of Education, the Service may disclose the mailing address of any taxpayer who has defaulted on certain loans extended under the Higher Education Act of Migration and Refugee Assistance Act for purposes of locating such taxpayer to collect the loan. This section further provides for the redisclosure by the Secretary of Education of a taxpayer's mailing address to any lender, or any State or nonprofit guarantee agency, participating under the Higher Education Act, or any educational institution with which the Secretary of Education has an agreement under that Act.

Redisclosure is made by the Secretary of Education for use only by officers, employees, or agents of such lender, guarantee agency, or institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such loan programs for purposes of collecting such loans.

The information provided is extracted monthly from the IMF (Treas./IRS System 24.030).

The U.S. Department of Education participates in (m)(4) computer matches.

Matches Conducted Under IRC 6103(m)(5)

Upon written request from the Secretary of Health and Human Services (HHS), the Service may disclose the mailing address of any taxpayer who has defaulted on certain loans extended under the Public Health Service Act for pusposes of locating such taxpayer to collect the loan. This section also provides for the redisclosure by the Secretary of HHS of a taxpayer's mailing address to any school with which the Secretary has an agreement under the Public Health Service Act, or any eligible lender participating under such Act.

Redisclosure is made by the Secretary of HHS for use only by officers, employees, or agents of such school or eligible lender whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under the Public Health Service Act for the purposes of collecting such loans.

The information provided is extracted monthly from the IMF (Treas./IRS System 24.030).

The Department of Health & Human Services participates in (m)(5) computer matches.

Approval of the IRS computer matching programs was granted by the Treasury Data Integrity Board on June 7, 1989.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Approved:

Linda M. Combs,

Assistant Secretary of the Treasury (Management).

[FR Doc. 90-14804 Filed 6-26-90; 8:45 am]

BILLING CODE 4830-01-M

Office of Thrift Supervision

[AC-35]

Albany First Federal Savings and Loan Association, Albany GA; Final Action Approval of Conversion Application

Date: June 20, 1990.

Notice is hereby given that on June 20, 1990, the Director of the Office approved the application of Albany First Federal Savings and Loan Association, Albany, Georgia, for permission to convert to the federal stock form of organization pursuant to a voluntary supervisory conversion, and the acquisition of the conversion stock by SunTrust Banks, Inc., Atlanta, Georgia, and its wholly-owned subsidiary, Trust Company of Georgia, Atlanta, Georgia.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-14839 Filed 6-26-90; 8:45 am]

BILLING CODE 6720-01-M

[No: 90-1160]

Unlisted Trading Privileges and Opportunity for Hearing; Midwest Stock Exchange, Inc.

June 15, 1990.

AGENCY: Office of Thrift Supervision, Department of the Treasury.

ACTION: Notice of application.

SUMMARY: The Midwest Stock Exchange, Inc. has filed, pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, application ("Application") with the Office of Thrift Supervision ("Office") for unlisted trading privileges in the following securities.

American Savings Bank, FSB, New York, New York (OTS No. 7776), $1.8125 Cumulative Convertible, Exchangeable Preferred Stock, No Par Value.

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

COMMENTS: Any interested person may inspect the Application at the Office, and, on or before July 12, 1990, submit to the Corporate and Securities Division, Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW Washington, DC 20552, written data, views and arguments bearing upon whether the extensions of unlisted trading privileges pursuant to the Application is consistent with the maintenance of fair and orderly markets and the protection of investors. Following this opportunity for hearing, the Office will approve the Application after the date mentioned above if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to the Application is consistent with the maintenance of fair and orderly markets and the protection of investors.

FOR FURTHER INFORMATION CONTACT: John P. Harootunian, Senior Counsel for Special Transactions and Compliance, Corporate and Securities Division, Chief Counsel, at (202) 906-6415 or at the above address.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-14837 Filed 6-26-90; 8:45 am]

BILLING CODE 6720-01-M

[No: 90-1158]

Approval of Application for Unlisted Trading Privileges; Midwest Stock Exchange, Inc.

June 11, 1990.

AGENCY: Office of Thrift Supervision, Department of the Treasury.

ACTION: Notice of approval of application.

SUMMARY: The Midwest Stock Exchange, Inc. filed with the Office of Thrift Supervision ("Office") (formerly the Federal Home Loan Bank Board ("Board")) an application ("Application"), pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act") and Rule 12f-1 (17 CFR 240.12f-1) thereunder, for unlisted trading privileges in the following securities which are listed on one or more national securities exchanges:

Crossland Savings Bank, FSB, Brooklyn, New York, OTS No. 7812, $1.825 Cumulative Convertible, Preferred Series A, No Par Value.

American Savings Bank, FSB, New York, New York, OTS No. 7776, Common Stock, No Par Value.

Northeast Savings, F.A., Hartford, CT, OTS No. 3231, $2.25 Cumulative Convertible A, Preferred Stock, $.01 Par Value.

Notice of the Application and opportunity for hearing was published in the **Federal Register** on August 11, 1989, and interested persons were invited to submit written data, views and arguments within 15 days. *See* Board Resolution No. 89-2219, dated August 4, 1989. 54 FR 33076, August 11, 1989. The Office received no comments with respect to the Application. Notice is hereby given that, pursuant to the authority delegated to the Chief Counsel or his designee, the Application for unlisted trading privileges in these securities was approved, on June 11, 1990.

SUPPLEMENTARY INFORMATION: The Office finds that the approval of the Application for unlisted trading privileges in these securities is consistent with the maintenance of fair and orderly markets and the protection of investors. As a national securities exchange registered with the Securities and Exchange Commission ("Commission") pursuant to section 6 of the Act, the Midwest Stock Exchange, Inc. is subject to the provisions of paragraph (b) of that section, and to the Commission's inspection authority and oversight responsibility under sections 17 and 19 of the Act and the rules and regulations thereunder. Transactions in the subject securities, regardless of the market in which they occur, are reported in the consolidated transaction reporting system contemplated by Rule 11Aa3-1 under the Act. 17 CFR 240Aa3-1. The availability of last sale information for the subject securities should contribute to pricing efficiency and to ensuring that transactions on the Midwest Stock Exchange, Inc. are executed at prices which are reasonably related to those occurring in other markets. Further, the approval of the Application will provide increased opportunities for competition among brokers and dealers and among exchange markets consistent with the purposes of the Act and the objectives of the national market system. Finally, the Office received no comments indicating that the granting of the Application would not be consistent with the maintenance of fair and orderly markets and the protection of investors.

Accordingly, pursuant to section 12(f)(1)(B) of the Act and pursuant to the authority delegated to the Chief Counsel or his designee, the Application for unlisted trading privileges in the above named securities was approved, on June 11, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-14835 Filed 6-26-90; 8:45 am]

BILLING CODE 6720-01-M

[No: 90-1159]

Approval of Application for Unlisted Trading Privileges; Philadelphia Stock Exchange

June 8, 1990.

AGENCY: Office of Thrift Supervision, Department of the Treasury.

ACTION: Notice of approval of application.

SUMMARY: The Philadelphia Stock Exchange filed with the Office of Thrift Supervision ("Office") (formerly the Federal Home Loan Bank Board ("Board")) and application ("Application"), pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act") and Rule 12f-1 (17 CFR 240.12f-1) thereunder, for unlisted trading privileges in the following securities which are listed on one or more national securities exchanges: Crossland Savings Bank, FSB, Brooklyn, New York (OTS No. 7812), Common Stock, $1.00 Par Value.

Notice of the Application and opportunity for hearing was published in the **Federal Register** on August 11, 1989, and interested persons were invited to submit written data, views and

arguments within 15 days. *See* Board Resolution No. 89–2218, dated August 4, 1989. 54 FR 33077, August 11, 1989. The Office received no comments with respect to the Application. Notice is hereby given that, pursuant to the authority delegated to the Chief Counsel or his designee, the Application for unlisted trading privileges in these securities was approved on June 8, 1990.

SUPPLEMENTARY INFORMATION: The Office finds that the approval of the Application for unlisted trading privileges in these securities is consistent with the maintenance of fair and orderly markets and the protection of investors. As a national securities exchange registered with the Securities and Exchange Commission ("Commission") pursuant to section 6 of the Act, the Philadelphia Stock Exchange is subject to the provisions of paragraph (b) of that section, and to the Commission's inspection authority and oversight responsibility under sections 17 and 19 of the Act and the rules and regulations thereunder. Transactions in the subject securities, regardless of the market in which they occur, are reported in the consolidated transaction reporting system contemplated by Rule 11Aa3–1 under the Act. 17 CFR 240Aa3–1. The availability of last sale information for the subject securities should contribute to pricing efficiency and to ensuring that transactions on the Philadelphia Stock Exchange are executed at prices which are reasonably related to those occurring in other markets. Further, the approval of the Application will provide increased opportunities for competition among brokers and dealers and among exchange markets consistent with the purposes of the Act and the objectives of the national market system. Finally, the Office received no comments indicating that the granting of the Application would not be consistent with the maintenance of fair and orderly markets and the protection of investors.

Accordingly, pursuant to section 12(f)(1)(B) of the Act and pursuant to the authority delegated to the Chief Counsel or his designee, the Application for unlisted trading privileges in the above named securities was approved on June 8, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–14836 Filed 6–26–90; 8:45 am]

BILLING CODE 6720–01–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 124
Wednesday, June 27, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM

Meeting

TIME AND DATE: 10:00 a.m., Monday, July 2, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-14960 Filed 6-22-90; 4:09 pm]

BILLING CODE 6210-01-M

federal register

Wednesday
June 27, 1990

Part II

Department of Health and Human Services

Food and Drug Administration

Department of Commerce

National Oceanic and Atmospheric Administration

21 CFR Part 197
50 CFR Ch. II

Voluntary Seafood and Fish and Fish Products Inspection Program; Invitation to Participate in a Pilot Study; Proposed Rule and Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 197

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Ch. II

[Docket No. 90N-0080]

Seafood Inspection

AGENCIES: Food and Drug Administration, HHS; and National Marine Fisheries Service, NOAA, Commerce.

ACTION: Advance notice of proposed rulemaking; request for public comment.

SUMMARY: The Food and Drug Administration (FDA) and National Marine Fisheries Service (NMFS) are jointly issuing this advance notice of proposed rulemaking (ANPRM) announcing their intent to establish a voluntary, fee-of-service inspection program for fish and fish products to be operated by both agencies. The proposed new program is intended to enhance existing Federal seafood inspection programs operated by FDA and NMFS. The new program is intended to address both safety and marketing and would provide an opportunity to extend the voluntary use of Hazard Analysis Critical Control Point (HACCP) principles more broadly in the fish and seafood industries.

The agencies request public comment on the outline of the program presented in this document and on various aspects of the program that would require regulations to implement.

DATES: Comments by August 13, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, and rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Generic model HACCP plans, which have been developed by industry under the congressionally-mandated Model Seafood Surveillance Project (MSSP) and are discussed in section C(2), may be obtained at no charge from the National Seafood Inspection Laboratory, P.O. Drawer 1207, Pascagoula, MS 39567.

FOR FURTHER INFORMATION CONTACT:

Richard Cano, Office of Trade and Industry Services, National Marine Fisheries Service, 1335 East—West Highway, Silver Spring, MD 20910, 301-427-2355

or

George Hoskin, Center for Food Safety and Applied Nutrition (HFF-400), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-245-1231.

SUPPLEMENTARY INFORMATION: Seafood safety is regulated at the Federal level primarily by FDA, which operates a comprehensive, mandatory program under the authorities of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) and the Public Health Service (PHS) Act. The FD&C Act charges FDA with assuring that foods, including seafood, are safe, wholesome, and not misbranded or deceptively packaged. FDA's authority under the PHS Act relates to the control of the spread of communicable diseases from one state, territory, or possession to another or from outside the United States into this country.

Under these authorities, FDA conducts mandatory inspections of processors, shippers, packers/repackers, labelers/relabelers, warehouses, and importers of fish and fish products. Some of this work is carried out by the states, under contracts with FDA. In addition, although subject to FDA regulation, the many hundreds of thousands of retail outlets and restaurants selling seafood products are inspected by the state and local health departments with technical assistance and training from FDA through its Retail Food Protection Program. FDA's program also includes sample analyses of both domestic and imported products, research into rapid detection methodologies for potential hazards and other matters affecting the regulation of seafood, substantial interaction with states, other Federal agencies, and foreign countries, enforcement activities, and education and information-sharing activities.

NMFS operates a voluntary, fee-for-service seafood inspection program under the authorities of the Agriculture Marketing Act of 1946 and the Fish and Wildlife Act of 1956. A memorandum of understanding (MOU) exists between NMFS and FDA relating to this program. Under that MOU, NMFS ensures that industry participant's operations and products meet the requirements of the FD&C Act, as well as NMFS's own quality and identity requirements. The program includes inspection, grading, and certification services, as well as the use of official marks that indicate that specific products have been Federally inspected. The program encompasses approximately 12 percent of seafood consumed in this country and approximately 9 percent of edible fishery exports. FDA takes the NMFS program into account when it targets inspection under its mandatory program.

The proposed program announced in this notice is included as part of the President's fiscal year 1991 budget as a voluntary, fee-for-service inspection program that is to be operated jointly by FDA and NMFS. As currently viewed by the agencies, the key differences between this new initiative and the current NMFS program, aside from joint operation, are that: (1) It will provide an additional incentive for firms to voluntarily implement HACCP principles across a broad array of fish and seafood products, and (2) it aims to cover imports as well as domestic and exported products. Like the current NMFS program, this new program would include the award of a mark for participants signifying that the participant is meeting the requirements of the program. This new program would be based in part on section 702A of the FD&C Act, which authorizes the display of such a mark under a voluntary inspection program supported by user fees.

The current NMFS program would continue to provide grading and related services. Ultimately, continuation of the other aspects of the current NMFS program would depend upon such factors as the extent to which participants opt to switch to the new HACCP-based program.

A. HACCP

The HACCP concept of identifying and monitoring potential hazards during processing has matured to the point where it can be formally implemented beyond its current application by regulation to the prevention of botulism in low-acid canned foods, a number of which are seafoods. HACCP principles may find useful application at many stages in the chain from harvest to market. The HACCP system is an approach to controlling consumer product hazards relating to safety, but may also be extended to economic fraud and wholesomeness as well. It is a two-step system. First, the range of hazards and concerns must be identified and evaluated, second, it involves: (1) Defining each operational step of a processing operation, (2) identifying the critical control points in the process to control the identified hazards to acceptable levels, (3) defining preventive measures to control the hazards, (4) detailing the procedures—either by observation or measurement—

that can be used to monitor the critical control points, and (5) defining the minimum records necessary to verify that the hazards are being controlled.

HACCP has proven itself since the early 1970's principally in the low-acid canned food industry and recently has been the subject of considerable analysis and endorsement by the National Academy of Sciences, the National Advisory Committee on Microbiological Criteria for Foods, including its Seafood Working Group, and others. In 1986, Congress directed NMFS to design an improved surveillance and certification system for fishery products base upon the HACCP concept. This study, known as the Model Seafood Surveillance Project (MSSP), will be completed this year with a report to Congress scheduled for December 1990. Preliminary results from that study are being used in the development of this proposed program through the use of generic model HACCP plans that were developed for various types of fishery products. These model plans could be used by firms as guides in developing their own company-specific HACCP-based plans.

B. The Proposed FDA-NMFS Program

FDA and NMFS expect that this joint voluntary HAACP-based, fee-for-service inspection program will lead to more cost-effective regulation of the seafood industry and will increase the industry's awareness of the benefits of the HACCP system. The agencies believe that such a program will enable them to focus more effectively on the prevention of economic hazards, such as additive abuse, short weight, species substitution, and overbreeding. At the same time, it will help reassure consumers about the safety and wholesomeness of fish and seafood products.

It is important to note, however, that the program is not intended to be a self-certification program. Although HACCP involves substantial self-monitoring by the industry, the program is intended to rely ultimately on routine regulatory monitoring inspections by NMFS and periodic verification inspections by FDA. By means of these inspections, FDA and NMFS intend to review the data being produced through industry self-monitoring to determine whether each HACCP-based system that may be established by a participant is in compliance with that participant's HACCP-based plan and to check for overall sanitation, compliance with current good manufacturing practices, labeling, and other requirements.

The agencies contemplate that the regulations for this program would provide for a voluntary, contractual program. They would address such issues as what the parties agree to do, the terms of a contract, and the rights of termination. The agencies' current thinking is that each contract should specify those records relating to a participant's HACCP-based plan that the parties agree will be subject to access by the agencies. The proposed regulations are also likely to address eligibility factors, the application process, and the development and submission of an HACCP-based plan by an applicant, as well as what factors an applicant's HACCP-based plan must adequately address, the significance of the mark and how it will be awarded, and the fee structure.

C. Request for Comments

In the development of this program, FDA and NMFS intend to take full advantage of the generic HACCP models that have been developed primarily by the industry under the MSSP. To further aid in the development of this program, the agencies are soliciting comments and advice from the public on several specific areas, as set out below. Comments and advice are encouraged on any other aspect of the program as well.

The agencies intend to take these comments into account in drafting a notice of proposed rulemaking.

1. Eligibility

What factors should be taken into account in establishing criteria for eligibility under this program?

It is worth noting in this regard that the agencies are considering making the low-acid canned food industry eligible to participate in this program with regard to fish and fish products even though that industry is already operating under an HACCP-based system. That system was established to control the occurrence of botulism. HACCP could be applied to other types of control points in that sector of the industry as well, making it eligible for the new inspection mark.

Should eligibility encompass fish and fish products intended for food for animals as well as for humans?

2. MSSP Generic Model HACCP Plans

Among the work products of the MSSP mentioned above are generic model HACCP plans for specific commodities or operations. The generic model plans address, among other things, the critical control points normally associated with a commodity or operation, the hazards associated with the critical control points, activities that could be undertaken to assure that the identified hazards do not occur, and the types of records that must be maintained in order to record the effective monitoring of critical control points. Generic model plans have already been drafted or are under development for: breaded shrimp, cooked shrimp, raw shrimp, breaded fish and specialty items (includes breaded molluscan shellfish, stuffed products, entree items, and surimi analog products), blue crab, raw fish, import products, scallops, smoked fish, west coast crab, molluscan shellfish, crawfish, vessels, lobsters, and aquaculture products. Those generic model plans already drafted may be obtained from the National Seafood Inspection Laboratory (address above). Interested parties may also submit comments on these generic model plans.

Because the generic model plans were developed by the industry under the MSSP for other purposes, i.e., as part of a congressionally-mandated project to design a mandatory inspection system using the HACCP concept, they constitute unofficial guidance for the development of plant-specific HACCP-based plans, and they may not be directly applicable to the voluntary program described here. FDA and NMFS intend to evaluate them for applicability to this program and modify them as necessary.

The agencies currently believe, however, that program applicants may find the generic models useful for developing their own HACCP-based plans. (For this reason, the agencies are encouraging firms with products for which generic model plans already exist to volunteer for a pilot test for this program targeted for later this year, although the pilot is not intended to be limited solely to such firms. A notice inviting volunteers for the pilot is being published separately.) However, applicants may develop their own HACCP-based plans independent of these generic models. Review and approval of an applicant's plan by the agencies is likely to be one condition for acceptance into the program. The generic models should provide guidance on critical control points, actions that could be undertaken to control hazards, and necessary records.

(a) Because the MSSP generic model plans were developed for different purposes as described above, to what extent should FDA and NMFS modify the generic plans to accommodate this alternative application? What other guidance should NMFS and FDA provide applicants for the development of their plant-specific HACCP-based plans?

(b) Should the above list of generic model plans serve to define, in whole or in part, eligibility into the program?

(c) If eligibility should be broader and include commodities or operations not listed above, what additional commodities/operations should be included? How should generic model HACCP plans for these additional commodities/operations be developed? Should eligibility be delayed until such generic model HACCP plans are prepared?

(d) Should eligibility be phased in on a commodity/operation basis? If so, which commodities or operations should be eligible first?

3. HACCP-Based Plans

The agencies intend to require each participant in this program to have an approved HACCP-based plan. The agencies further intend to provide that all products produced in the facility to which the plan applies must be covered by the plan. (For example, an HACCP-based plan could not cover just one production line out of four in a facility but would have to cover all four lines.)

In order to be approved, it is likely that HACCP-based plans would have to adequately address a number of factors. Those factors currently under consideration include current good manufacturing practices, training of personnel, the safety and suitability of ingredients, necessary structures, equipment and procedures, production and process controls, control of containers, maintenance of records, sanitation, and product testing by the firm. Comments on how any or all of these factors should be specifically addressed in an HACCP-based plan are encouraged. Should any other factors, such as recall procedures, be included? Do small businesses face problems that would require special consideration as they develop specific HACCP-based plans? Should the agencies provide technical assistance to small businesses in developing these plans?

4. The Mark

The agencies intend to allow those who meet the requirements of this program to display a mark on the labeling of their products. It is expected that the mark will signify that the facility is a member in good standing in this program, has a Federally approved HACCP-based plan, and is appropriately monitoring critical control points as evidenced by the results of Federal regulatory monitoring and verification inspections.

Competent application of HACCP principles may enhance the safety of fish and seafood products, which are already much safer than other foods that provide similar nutritional value. Nevertheless, HACCP is not intended to guarantee and cannot provide a risk-free product. It must be understood that the Government intends to reserve the right to act against a product bearing a mark if that product is later found to violate applicable Federal laws. Compliance with this program can, however, attest to the overall marketability of the product, including general freedom from species substitution, overbreading, and other forms of economic deceptions, as well as provide an additional assurance of the product's underlying safety and quality. With these principles in mind:

(a) How can the mark be designed to communicate the message that products bearing it have satisfied program requirements, without inadvertently creating misperceptions, in particular misperceptions about relative risk, relating to products sold without the mark?

(b) What should be the statement and configuration of the mark? For bulk fresh product, for example, how should the mark be displayed?

(c) Should the mark signify compliance with minimum sanitary and product wholesomeness criteria or some higher level acceptability? For example, should the mark be permitted on products containing a minimum unavoidable amount of decomposition, as currently reflected by FDA's defect action level for decomposition, when current good manufacturing practices are followed, or should the mark be allowed only on products that exceed minimum quality, *e.g.*, that contain no decomposed material as determined by a specified analytical and sampling plan? Higher minimum quality levels above current good manufacturing practices are achievable but could possibly require greater effort and cost.

i. If the mark were to signify that the product was free of decomposition, what percentage of a lot should be sampled to assure that the lot is free of decomposed products?

ii. Should the mark be permitted when source material has to be reworked in order to bring it or the final product into compliance with a no decomposition requirement?

(c) How should this mark relate to established U.S. marks (*e.g.*, Packed Under Federal Inspection, Grade A)?

(d) Should the agencies require that this mark be displayed on products originating from participating facilities, or should display be at the option of the firm?

(e) If retailers are eligible for this program, should they be held to the same standard as processors with regard to source material? For processors, the agencies contemplate that the door to the plant is, figuratively, a critical control point for source materials. The agencies intend that materials should either come from a source that is in the FDA/NMFS HACCP-based program or that is adequately controlled (*e.g.*, sampled) if the source is other than in this program. Also, for retailers, could the mark be in the form of a sign posted in the store? (See also question 9(c) on imports.)

5. Fees

Fees under the current NMFS voluntary program are based on an hourly rate and are set at a level intended to recover costs to NMFS. FDA and NMFS intend to establish a fee schedule for this program that is economically sound, avoids unfair cross-subsidization across participant firms and industries, and provides efficient incentives for participants to comply with program requirements. What factors should be used in deciding upon the fee structure for this new program? Should fees be limited to recovering costs to FDA and NMFS of inspection and sample analyses only, or should they include costs incurred by those agencies associated with informing consumers about the meaning of the mark? What alternative fee structures are available that would accomplish the goals outlined above?

6. Inspection Intervals

The seafood industry is far from uniform and is characterized by a great variety of processing and other operations. To what extent should inspection rates vary based on the complexity of the operation, the numbers and types of critical control points, and the success that the firm is having in operating under an HACCP-based plan?

7. Sampling and Analysis

The agencies invite comment on the extent to which participants in the program should be expected to have their own source materials, in-process materials, and end products analyzed for defects. The laboratories used, whether in-house or contract, would be expected to use methodologies that are consistent with, or at least as sensitive as, those used by the agencies, in order to facilitate the interpretation of the data, among other things. Should Federal inspection of contract laboratories be a part of the verification procedures of the joint FDA–NMFS program?

8. Delisting

If a firm is consistently unsuccessful in meeting the conditions of the program, it becomes questionable whether the firm should be permitted to continue to participate. What should be the criteria for delisting and reinstatment?

9. Training

An HACCP-based program must involve the training of key people involved in food processing, as well as the training of regulatory personnel.

(a) For industry personnel, what specifically should be included in the curriculum? Should there be different levels of training?

(b) Should the program require that each participating firm have at least one person who is certified in HACCP by virtue of appropriate training?

(c) Should training for industry personnel be undertaken wholly or in part by the private sector?

(d) Should the Federal program develop specific training and testing criteria, certify that training, or require private instructors to receive some Federal training?

10. Imports

The United States is currently the second largest importer of fish and fishery products in the world.

Therefore, FDA and NMFS believe that this program should be structured to the extent possible to include imported fish and fish products. It is not currently contemplated that a mark could be awarded under this program solely on the basis of end product testing of imports because verified sanitary control up to the end product stage, based on the requirements of this program, would be lacking. Consequently, inspection of foreign suppliers would be necessary. The agencies' current view is that foreign suppliers that participate in the program would be subject to the same HACCP-based planning and self-monitoring requirements as domestic participants.

(a) Should the program negotiate MOU's with foreign countries that have sufficient regulatory mechanisms in place to conduct these inspections on the program's behalf? Under such a MOU, should the foreign country conduct both the monitoring and verification inspections?

(b) Should the frequency rate of inspection for foreign suppliers be the same as the rate for domestic processors?

(c) Should the mark be the same?

(d) From whom should the program collect fees?

i. The importer?

ii. The foreign firm?

iii. The foreign country (assuming the existence of an MOU)?

(e) Should imports from program participants be limited to certain U.S. ports to facilitate entry?

11. Exports

The United States is currently the largest exporter of fishery products in the world. Therefore, the structure of this program should adequately address the needs of U.S. exporters to assure foreign governments and consumers that U.S. fishery products are safe, wholesome, and in compliance with recognized, established criteria for their respective countries.

The use of scientifically-based regulations and inspection procedures continue to be important topics of discussion in international bodies such as the General Agreement on Tariffs and Trade (a forum that addresses international trade disputes) and CODEX Alimentarius (a joint commission of the Food and Agriculture Organization for the purpose of establishing international standards for trade.) The value of a HACCP-based inspection program has already been established for low-acid canned foods and an extension of that type of program to other forms of seafood should help maintain the U.S. position in international trade.

This premise has been recognized in the meetings of the Technical Working Group on Fish and Fishery Product Inspection under the Canada-U.S. Free Trade Agreement. The Canadian delegation has proposed the formal recognition of the FDA–NMFS HACCP-based inspection program by the Canadian inspection service upon its implementation. Also, the FDA–NMFS program is one of several topics for discussion at the June 1990 bilateral consultations between the United States and the European Community in Brussels, Belgium.

The agencies are operating under the premise that exports from a plant participating in this program ought to be subject to the same requirements as products for the domestic market. Is this a valid premise? What effects, positive or negative, could it have on trade? What features directed toward exports should the program include?

Interested persons may, on or before August 13, 1990, submit to the Dockets Management Branch (address above) written comments regarding this ANPRM. 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. Comments received may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This ANPRM will be followed by a notice of proposed rulemaking that will propose, among other things, to remove the existing FDA regulations at 21 CFR part 197 relating to the inspection of canned oysters and processed shrimp under section 702A of the FD&C Act. As noted above, section 702A of the FD&C Act authorizes the Secretary of Health and Human Services to establish a voluntary, fee-for-service seafood inspection program involving the display of a mark for compliance with the statute and applicable regulations.

The original version of section 702A of the FD&C Act was enacted in 1934 (as section 10A of the Food and Drugs Act of 1906) to establish an inspection service that would alleviate problems with decomposition of shrimp then being experienced in the Gulf of Mexico area. Regulations under then-section 10A were issued in 1939 for the inspection of canned shrimp. The program was extended by regulation in 1944 to canned oysters. In their present form, the successors to these regulations require the assignment of inspectors to participating establishments for specified periods of time on a continuous basis and contain a number of other detailed requirements. These regulations have been unused since 1957, however, when the voluntary inspection service under section 702A was discontinued. The current FDA mandatory inspection program for seafood operates under other provisions of law, and a successor fee-for-service program operated by NMFS continues to function successfully, based in part on an MOU with FDA.

Now that FDA and NMFS intend to rely in part on section 702A of the FD&C Act as a basis for the new fee-for-service program that is the subject of this ANPRM, FDA intends to repeal the existing but unused regulations for shrimp and oysters, and the agencies intend to replace them with regulations that will implement a voluntary HACCP-based program based on current theory and experience, as described previously in this notice.

Authority: This ANPRM is issued under secs. 402, 403, 404, 701, 702A, 704, and 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 343, 344, 371, 372a, 374, and 381), title II of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), sec. 6(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742e), and Reorganization Plan No. 4 of 1970 (84 Stat. 2000).

Dated: June 18, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

[FR Doc. 90–14800 Filed 6–21–90; 4:12 pm]

BILLING CODE 4160–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N-0080]

Voluntary Fish and Fish Products Inspection Program; Invitation To Participate in a Pilot Study

AGENCIES: Food and Drug Administration, HHS.

ACTION: Notice; invitation to industry to participate in a pilot study of the voluntary fishery products inspection program.

SUMMARY: The Food and Drug Administration (FDA) and the National Marine Fisheries Service (NMFS) intend to conduct a joint, fee-for-service inspection program that will enhance the existing programs for seafood now being operated by the two agencies. These programs relate to the safety, wholesomeness, and proper labeling of fish and fish products. The planned joint program will be based on Hazard Analysis and Critical Control Point (HACCP) principles, and participation will be voluntary. The two agencies are soliciting participants for a 2-month pilot study presently scheduled to begin October 1, 1990.

DATES: Letters of inquiry from volunteers must be submitted by July 27, 1990.

ADDRESSES: Letters of inquiry to the Division of Microbiology (HFF-232), Food and Drug Administration, Rm. 3824, 200 C St. SW., Washington, DC 20204. The generic model plans already drafted, as discussed below, may be obtained from the National Seafood Inspection Laboratory, P.O. Drawer 1207, Pascagoula, MS 39567.

FOR FURTHER INFORMATION CONTACT: John E. Kvenberg, Center for Food Safety and Applied Nutrition (HFF-232), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-245-1221.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register** an advance notice of proposed rulemaking (ANPRM) is being published jointly by FDA and NMFS announcing their intent to establish a voluntary, fee-for-service inspection program for fish and fishery products to be operated by both agencies. Prior to starting the joint inspection program, the two agencies will conduct a pilot study. The pilot study is intended to measure the ability of industry to implement operation of an HACCP-based system in the production and distribution of seafood under an approved plan. The pilot study will enable FDA/NMFS to develop systems to monitor and verify that the HACCP-based plans are operating effectively.

Individual HACCP-based plans will be developed by the industry participants and may be either independently drafted or patterned from existing seafood commodity models developed under the Model Seafood Surveillance Project (MSSP). The MSSP models were developed by industry participants in cooperation with NMFS. (See the ANPRM for a detailed discussion of these model plans and their applicability to this program.) Critical controls for safety, hygiene, and economic fraud must be addressed in the HACCP-based plans developed for this pilot study.

Volunteers for participation in the pilot study are sought from individual firms involved in various aspects of the harvest, production, distribution, and retail sale of seafood in the continental United States. Also, because of the significance of imported seafood in the United States marketplace, participation by foreign firms and firms involved with imported seafood products is also sought to the extent that such participation is practicable.

Selection of firms for the pilot study will be made by the Commissioner of Food and Drugs and the Administrator of the National Oceanic and Atmospheric Administration. Factors to be used in selection will include: (1) Geographical location, national representation is desirable; (2) size of firm, both large and small volume operations are sought; and (3) type of commodity, those covered by completed MSSP models are desirable.

Ideally, the pilot study should include cooked, raw, and breaded products as well as products that represent a substantial volume of sales in the United States. Currently, MSSP model plans have been completed for cooked shrimp, raw shrimp, breaded shrimp, breaded fish, specialty items (i.e., fish entrees), blue crab, and raw fish. With the exception of blue crab, these MSSP model plans reflect the criteria for commodity types stated above.

Previous experience in HACCP-based operations or participation in the MSSP model development program are not necessary for participation in the pilot study. In fact, it is desirable to include firms with varying degrees of prior HACCP experience.

Selected firms must each agree to designate one or two individuals to be responsible for the development and implementation of an HACCP-based plan designed specifically for the selected firm. These individuals will be expected to participate in a 2-day training course prior to their independent development and implementation of the HACCP-based plan for that firm. The industry training course will be held on or about August 7 and 8, 1990 in Chicago, IL. Transportation and other expenses for industry trainees must be paid by the individuals attending or by their sponsor firms.

Selected firms must agree to allow inspection and record review of critical control point data identified in the HACCP-based plans that are developed by the participants and accepted by the agencies. Specific records that will be maintained and made available for review will be agreed to by the parties in advance as part of the application process.

In order for this test of an HACCP-based system to be manageable yet sufficiently comprehensive, the agencies reserve the option of conducting more than one pilot, possibly sequentially, each one focusing on different types of products or processes. The agencies will decide whether and how to exercise this option based in part on the response to this notice.

For further details refer to the ANPRM published elsewhere in this issue of the **Federal Register**.

Interested persons are invited to submit a letter of inquiry to the Division of Microbiology (address above). Letters must be submitted by July 27, 1990.

Dated: June 21, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-14801 Filed 6-21-90; 4:14 pm]

BILLING CODE 4160-01-M

federal register

Wednesday
June 27, 1990

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 13 et al.

Federal Acquisition Regulation (FAR); Certification Challenge to BAA, TAA, Balance of Payments Program Certificate; Government Credit Cards; Thresholds and Clauses; and Transfer of Government Property; Proposed Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 25

Federal Acquisition Regulation (FAR); Certification Challenge to BAA, TAA, Balance of Payments Program Certificate

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to the Federal Acquisition Regulation (FAR) 25.405 to add procedural guidance currently at 25.407(b) and to address challenges to the certification in the provision at 52.225–8.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 27, 1990, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 90–31 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR Case 90–31.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule implements in the FAR the procedures currently being followed by some individual agencies.

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 25

Government procurement.

Dated: June 18, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 25 be amended as set forth below:

PART 25—FOREIGN ACQUISITION

1. The authority citation for 48 CFR part 25 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

2. Section 25.405 is amended by adding paragraph (f) to read as follows:

§ 25.405 Procedures.

* * * * *

(f) The contracting officer shall rely on the offeror's certification at 52.225–8, Buy American Act-Trade Agreements Act-Balance of Payments Program Certificate as submitted. However, should an offeror challenge the certification the challenge to the certification shall be referred to the Treasury Department, Office of Regulation and Ruling, Washington, DC, 20229.

§ 25.407 [Amended]

3. Section 25.407 is amended by removing existing paragraph (b); by redesignating existing paragraph (a) as introductory text to the section; and by redesignating existing paragraphs (a) (1), (2) and (3) as new (a), (b), and (c) respectively.

[FR Doc. 90–14807 Filed 6–26–90; 8:45 am]

BILLING CODE 6820-34-M

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48 CFR Part 13

Federal Acquisition Regulation (FAR); Government Credit Cards

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to the Federal Acquisition Regulation (FAR) to add subpart 13.6 to provide general policy guidelines, and prescribe agency responsibilities and conditions for use of Government credit cards in the place of certain purchase orders and imprest funds draw-downs. The use of credit cards is expected to reduce administrative costs and expand the number of vendors available to supply goods and services to the Government.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 27, 1990, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 90–32 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR Case 90–32.

SUPPLEMENTARY INFORMATION:

A. Background

The Department of Commerce successfully accomplished a pilot study to test the effectiveness of using a commercial credit card for certain small purchases. This study found that the credit card could replace purchase orders and imprest fund draw-downs for small purchases, thereby reducing administrative costs and expanding the number of vendors available to supply goods and services to the Government.

As a result of this successful test, OMB tasked GSA to establish a Federal Supply Schedule contract to make commercial credit card services available Governmentwide. This case provides guidelines in the FAR to enable contracting officers to effectively use this payment method. A new subpart is established to provide a general policy statement and to prescribe agency responsibilities and conditions to ensure that proper fiscal control is maintained in their use.

B. Regulatory Flexibility Act

The proposed rule is expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

Therefore, an Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administrator. A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities

concerning the affected FAR subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite section 90-610 (FAR Case 90-32) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 13

Government procurement.

Dated: June 18, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 13 be amended as set forth below:

PART 13—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

1. The authority citation for 48 CFR part 13 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Subpart 13.6, consisting of sections 13.601 through 13.604, is added to read as follows:

Subpart 13.6—Government Credit Cards

Sec.
13.601 General.
13.602 Agency responsibilities.
13.603 Conditions for use.
13.604 Limitations.

Subpart 13.6—Government Credit Cards

13.601 General.

(a) A Government credit card is a method of paying for the purchase of supplies and services within the small purchase limitation in 13.000.

(b) All purchases that are paid for using Government credit cards are subject to all applicable provisions of this Part 13 and agency regulations, and must be authorized and documented accordingly.

(c) Government credit cards generally may be used to pay for over-the-counter or telephone purchases when the supplies or services are available immediately and a single delivery and payment will be made. For transactions of $2,000 or less completed over-the-counter or by telephone using a Government credit card, no written confirmation of the transaction is required. Unless otherwise specified in agency regulations, for transactions over $2,000 completed over-the-counter or by telephone using a Government credit card, a written confirmation of the transaction is required.

(d) Government credit cards may be used to pay for orders against established contracts and agreements (*e.g.*, federal supply schedules, blanket purchase agreements, and indefinite delivery-type contracts) if authorized by the terms of the contract or agreement.

(e) When a written order is used to purchase supplies or services and a Government credit card is used for payment, the order shall be marked "Payment will be made by Government Credit Card."

13.602 Agency responsibilities.

(a) Each agency using Government credit cards shall establish procedures for the use and control of the credit cards that comply with the Treasury Financial Manual for Guidance of Departments and Agencies (TFM 4-4500), and the terms and conditions of the GSA contract which provides for Government use of commercial credit cards services. As a minimum, these procedures shall—

(1) Establish approved uses, restrictions, and spending limits;

(2) Establish methods for designating personnel authorized to use a credit card and provide for periodic review to determine if each card is still needed;

(3) Establish procedures to review validate monthly statements of account;

(4) Establish controls to prevent unauthorized use of cards and to limit the potential for fraud;

(5) Establish steps to be followed if a card is lost, stolen, or canceled, or if a cardholder is terminated, transfers, or retires;

(6) Establish procedures regarding unacceptable supplies to:

(i) Refuse delivery;

(ii) Return promptly, if received; or,

(iii) Adjust the monthly accounting statement accordingly.

(b) Each agency using the Government credit card(s) on a regular basis for payment of single purchases exceeding $2,000 must perform the cost and benefit analysis required by the TFM 4-4500. The analysis should cover the procurement process from receipt of requisition through payment.

13.603 Conditions for use.

Agencies may only use Government credit cards when:

(a) The procedures required by 13.602 are in place; and

(b) Cardholders, approving officials, and finance office personnel have been trained in credit card program procedures and applicable purchasing procedures, including requirements for documentation of the purchase, receipt, and acceptance of the supplies or services.

13.604 Limitations.

Government credit cards shall not be used for items prohibited by the GSA contract providing for use of Government credit cards, or agency procedures.

[FR Doc. 90-14808 Filed 6-26-90; 8:45 am]

BILLING CODE 6820-34-M

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48 CFR Parts 27 and 52

Federal Acquisition Regulation (FAR); Thresholds and Clauses

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to FAR 27.204, to raise the threshold from $5,000 to $25,000 in Alternate III of the clause at 52.227-3, and to remove the clause at 52.227-8.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 27, 1990, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 90-33 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAR Case 90-33.

SUPPLEMENTARY INFORMATION:

A. Background

The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council have agreed to increase the threshold at FAR 52.227-3, Alternate III, which applies only to subcontracts for communications services when the services are not regulated and are not priced by a

regulatory body. The proposed rule raises the existing threshold of $5,000, established in 1971, to $25,000. The Councils have further determined to delete FAR 52.227-8 as unnecessary because the requirements are covered adequately by FAR 52.227-6.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because these entities do not hold a vast majority of contracts subject to the requirements which are being changed. An Initial Regulatory Flexibility Analysis has therefore not been performed. Comments are solicited from small businesses and other interested parties. Comments from small entities concerning the affected FAR section will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite section 90-610 (FAR Case 90-33) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 27 and 52

Government procurement.

Dated: June 18, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 27 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 27 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 27—PATENTS, DATA, AND COPYRIGHTS

2. Section 27.204-1 is amended by revising in paragraph (b), the first two sentences, and in paragraph (c), the first sentence, to read as follows:

27.204-1 General.

* * * * *

(b) Any solicitation that may result in a negotiated contract for which royalty information is desired or for which cost or pricing data is obtained (see § 15.804) should contain an provision requesting information relating to any proposed charge for royalties. If the response to a solicitation includes a charge for royalties, the contracting officer shall, before award of the contract, forward the information relating to the proposed payments of royalties to the office having cognizance of patent matters for the contracting activity concerned. * * *

(c) The contracting officer, when considering the approval of a subcontract, shall require and obtain the same royalty information and take the same action with respect to such subcontracts in relation to royalties as required for prime contracts under paragraph (b) of this subsection. * * *

* * * * *

27.204-2 [Amended]

3. Section 27.204-2 is amended by removing the words "If it is expected that work may be performed in the United States, its possessions, or Puerto Rico, the" and inserting in their place "The".

27.204-4 [Removed and Reserved]

4. Section 27.204-4 is removed and reserved.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.227-3 [Amended]

5. In section 52.227-3, Alternate III of the clause is amended by removing the date "(APR 1984)" and inserting in its place "(JUN 1990)"; by removing the figure "$5,000" and inserting in its place "$25,000"; and by removing the derivation line following the Alternate.

52.227-8 [Removed and Reserved]

6. Section 52.227-8 is removed and reserved.

[FR Doc. 90-14809 Filed 6-26-90; 8:45 am]

BILLING CODE 6820-34-M

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48 CFR Part 45

Federal Acquisition Regulation (FAR); Transfer of Government Property

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to revise Federal Acquisition Regulation (FAR) 45.508-1 to ensure that Government property is transferred and documented properly upon termination or completion of a contract.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 27, 1990, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 90-34 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAR Case 90-34.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*; therefore, a Regulatory Flexibility Analysis has not been performed. However, comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR section will also be considered in accordance with section 601 of the Act. Such comments must be submitted separately and cite section 90-610 (FAR Case 90-34) in correspondence.

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 45

Government procurement.

Dated: June 18, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 45 be amended as set forth below:

PART 45—GOVERNMENT PROPERTY

1. The authority citation for 48 CFR part 45 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

2. Section 45.508–1 is amended in paragraph (a) by removing the words "paragraph (b) below" and inserting in their place "paragraph (c) of this subsection"; by redesignating existing paragraphs (b) and (c) as new (c) and (d); and by adding new paragraph (b) to read as follows:

45.508–1 Inventories upon termination or completion.

* * * * *

(b) In all instances, transfers of Government property to another Government contract must be based upon known requirements under the gaining contract and documented in the contract schedule and by a modification executed by the contracting officer. The justification upon which the transfer is based will specify the consideration the Government will receive for transfer of the property.

* * * * *

[FR Doc. 90–14810 Filed 6–22–90; 8:45 am]

BILLING CODE 6820–34–M

federal register

Wednesday
June 27, 1990

Part IV

Department of Health and Human Services

National Institutes of Health

Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee Meetings and Recombinant DNA Research: Proposed Actions Under Guidelines; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee; Meetings

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Human Gene Therapy Subcommittee (a subcommittee of the Recombinant DNA Advisory Committee) on July 30, 1990, followed by a meeting of the Recombinant DNA Advisory Committee on July 31, 1990. Both meetings will be held at the National Institutes of Health (NIH), Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892, starting at approximately 9 a.m. to adjournment at approximately 5 p.m. These meetings will be open to the public to discuss the following proposed actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules:

Proposed Major Actions to the NIH Guidelines

Three Additions to appendix D of the NIH Guidelines Regarding Human Gene Therapy Protocols;

Three Additions to Appendix D of the NIH Guidelines Regarding Human Gene Transfer Clinical Protocols;

Addition to the Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA into the Genome of Human Subjects to Expedite Minor Modification on Approved Protocols; and

Other Matters To Be Considered by the Committees

Attendance by the public will be limited to space available. Members of the public wishing to speak at these meetings may be given such opportunity at the discretion of the Chair.

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 4B11, Bethesda, Maryland 20892, telephone (301) 496–9838, fax (301) 496–9839, will provide materials to be discussed at these meetings, rosters of committee members, and substantive program information. A summary of the meetings will be available at a later date.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: June 21, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–14842 Filed 6–26–90; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of Proposed Actions Under the NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposed actions to be taken under the National Institutes of Health (NIH) Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning this proposal. These proposals will be considered by the Recombinant DNA Advisory Committee (RAC) at its meeting on July 31, 1990. After consideration of these proposals and comments by the RAC, the Director of the National Institutes of Health will issue decisions in accordance with the NIH Guidelines.

DATES Comments received by July 23, 1990, will be reproduced and distributed to the RAC for consideration at its July 31, 1990, meeting.

ADDRESS: Written comments and recommendations should be submitted to Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, Building 31, room 4B11, National Institutes of Health, Bethesda, Maryland 20892, or sent by fax to 301–496–9839. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from the Office of Recombinant DNA Activities, Building 31, room 4B11, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9838.

SUPPLEMENTARY INFORMATION: The NIH will consider the following actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules:

I. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Drs. Blaese, Anderson, Culver

A continued discussion of the human gene therapy protocol by Drs. R. Michael Blaese, W. French Anderson, and Kenneth W. Culver of the National Institutes of Health which is entitled, "Treatment of Severe Combined Immunodeficiency Disease (SCID) Due to Adenosine Deaminase ADA Deficiency with Autologous Lymphocytes Transduced with a Human ADA Gene." During the Human Gene Therapy Subcommittee on June 1, conditional approval was given. The Human Gene Therapy Subcommittee will meet on July 30 to review more documentation and vote of formal recommendation for approval to the Recombinant DNA Advisory Committee. If recommendation for approval is given, the Recombinant DNA Advisory Committee will consider this protocol on July 31.

II. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Rosenberg

In a letter dated June 13, 1990, Dr. Steven A Rosenberg of the National Institutes of Health indicated his intention to submit a human gene therapy protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee. The title of this protocol is "Gene Therapy of Patients with Advanced Cancer using Tumor Infiltrating Lymphocytes Transduced with the Gene Coding for Tumor Necrosis Factor."

III. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Drs. Freeman Abraham, Dipersio

Drs. Scott A. Freeman, George N. Abraham, and John Dipersio of the

University of Rochester indicated their intention to submit a human gene therapy protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee. The title of this protocol is "Gene Therapy for Cancer Treatment (I)."

IV. Addition to the "Points to Consider" Document to Expedite Minor Modification on Approved Protocols

During the June 1 meeting, the Human Gene Therapy Subcommittee recommended a procedure for expediting reviews on approved human gene therapy protocols. The following policy is proposed for discussion, approval, and addition to the document entitled, "Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA into the Genome of Human Subjects." The proposal is as follows:

A minor change in a protocol approved by the Human Gene Therapy Subcommittee, that is, a change that does not significantly alter the basic design of a protocol and that does not increase risk to the subjects, may be approved by the Chair of the Subcommittee if the change has also been approved by the relevant IRB and by the relevant Institutional Biosafety Committee. The Chair will report on any such approvals at the next regularly scheduled meeeting of the Subcommittee.

V. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Clinical Protocol-Drs. Brenner, Ihle, Mirro

In a letter dated June 22, 1990, Drs. M. K. Brenner, J. Ihle, J. Mirro of the St. Jude Children's Research Hosptial indicated their intention to submit a human gene transfer clinical protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee. The title of this protocol is "Use of Marker Genes to Investigate the Biology of Marrow Reconstitution and Relapse of Malignant Disease Following Autologous Bone Marrow Transplantation."

VI. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Clinical Protocol/Dr. Cornetta

In a letter dated June 22, 1990, Dr. Cornetta of the University of Wisconsin indicated his intention to submit a human gene transfer clinical protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee. The title of this protocol is "Retroviral-Mediated Gene Transfer of Bone Marrow Cells During Autologous Bone Marrow Transplantation for Acute Leukemia: Understanding Disease Recurrence."

VII. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Clinical Protocol/Dr. Lotze

In a letter dated June 22, 1990, Dr. M. T. Lotze of the Pittsburgh Cancer Institute, University of Pittsburgh indicated his intention to submit a human gene transfer clinical protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee. The title of this protocol is "The Treatment of Patients with Advanced Cancer Using Interleukin 2, Interleukin 4 and Tumor Infiltrating Lymphocytes."

Additional documentation supporting these requests will be distributed at the meeting. This material also is available upon request from the Office of Recombinant DNA Activities.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow NIH Guidelines. In lieu of the individual program listing, the NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: July 14, 1990.

Jay Moskowitz,

Associate Director, Office of Science Policy and Legislation, National Institutes of Health.

[FR Doc. 90-14841 Filed 6-26-90; 8:45 am]

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Wednesday
June 27, 1990

Part V

Office of Personnel Management

Proposed Demonstration Project—A Public Sector Skill-Based Compensation System in a Participatory Work Environment; Notice

OFFICE OF PERSONNEL MANAGEMENT

Proposed Demonstration Project—A Public Sector Skill-Based Compensation System in a Participatory Work Environment

AGENCY: Office of Personnel Management.

ACTION: Final notice of proposed demonstration project.

SUMMARY: Title VI of the Civil Service Reform Act authorizes the Office of Personnel Management (OPM) to conduct demonstration projects that experiment with new and different personnel management concepts to determine whether a specified change in policies or procedures would result in improved Federal personnel management. The proposed demonstration project was published in the **Federal Register** on April 5, 1989. This is the final demonstration project plan approved by the Office of Personnel Management.

DATES: *Approval Date:* The demonstration project was approved by the Office of Personnel Management on June 21, 1990.

Implementation Date: The demonstration project may be implemented no sooner than the expiration of the 90-day Congressional Review Period. OPM, in consultation with DLA, will make the final determination as to when the Defense Depot Ogden, Utah is fully prepared for project implementation.

FOR FURTHER INFORMATION CONTACT: In Ogden, Utah: Fred Case, (801) 399-7776; In Washington, DC: Les Bodian, (202) 606-1025.

SUPPLEMENTARY INFORMATION: *On the Proposed demonstration project:* The Defense Logistics Agency (DLA) submitted a proposed demonstration project for consideration under chapter 47 of title 5, U.S. Code entitled, "A Public Sector Skill-Based Compensation Program in a Participatory Work Environment."

The purpose of the project is to demonstrate that a skill-based compensation system, combined with structural changes and training to promote participatory work practices, can enhance the effectiveness of a public sector organization. Reduced costs, increased organizational flexibility, and improved quality are also expected to result.

To accomplish this purpose, the following changes to current personnel management policies and procedures are proposed:

1. An organizational structure based on multi-skilled work teams, in which each member acquires all the skills necessary for accomplishment of the team's mission.

2. A simplified compensation system consisting of five pay bands which will cover positions previously classified under both the General Schedule and the Federal Wage System with increases to base pay based on the acquisition of required team skills and knowledges.

3. A revised performance evaluation system that employs fewer summary performance levels, includes ratings of team performance, and bases individual ratings, in part, on peer input.

4. A formal job knowledge certification program.

5. An alternative disciplinary procedure for minor offenses under which managers may substitute non-punitive "letters of discipline" for formal disciplinary procedures.

The demonstration will cover all employees (approximately 1,600) at the Defense Depot, Ogden, Utah (DDOU). The project will run for 5 years from the date of implementation.

A proposed demonstration project plan was published on April 5, 1989, in the **Federal Register** (Vol. 54, No. 64 FR 13777). On the same date, copies of the proposed plan were transmitted to both Houses of Congress as required by 5 U.S.C. 4703(b)(4). The public comment period began on April 5, 1989. A public hearing was held on the proposed demonstration project plan on May 11, 1989, at Ogden, Utah.

Summary of Comments and Responses: Fourteen individuals spoke at the public hearing held by OPM on May 11, 1989, in Ogden, Utah, and OPM received 34 letters offering comment. One letter was from the national office of the American Federation of Government Employees (AFGE), two were from U.S. Senators, and the rest were from DDOU employees. Responses to the proposal at the hearing and in the letters included expressions of support for the program, criticisms, and suggestions for improving the program design. The following table summarizes the nature of the comments:

Type of Comment	Hearing speakers	Letters to OPM
Support for the project	2	1
Concern about employee input into decisions concerning the project/communication of project information	6	31
Concern about/recommendations regarding project features	8	27
Concern about inclusion in the project	8	28
Total responses	14	34

Supportive comments expressed expectations that the project would improve the efficiency of DDOU and that it would increase job satisfaction among the Depot's employees. Statements of support also referred to the record of participative work environment (PWE) initiatives in the private sector and expressed the opinion that such experiments as that proposed for the Depot are important to the accumulation of knowledge about personnel management issues within the Federal government.

Comments expressing criticism of the proposal or suggesting modifications to it comprised the majority of the comments received by OPM. Critical comments and suggested project modifications can be categorized according to the following issues:

Employee Input Into Decisions Concerning the Project

1. Concern was raised that management was not being open with employees about the details of the program. Employees commented that the **Federal Register** notice outlining the original proposal was difficult to understand for many DDOU employees. They also expressed concern that information on the specific layout of teams, team descriptions, and which current positions will be subsumed into each team, was not circulated to employees. Respondents pointed out that turnout at the May 11, hearing was discouraged by the fact that the hearing was held during the working day and that workers had to take annual leave or leave without pay to attend unless they were pre-registered to speak.

OPM, DLA, and DDOU recognize that the **Federal Register** notice cannot provide employees with all the information they need about the project. Additional employee orientation sessions will be held by DDOU management prior to project implementation. Articles in the DDOU newspaper will be published prior to and during implementation further explaining the project, and DDOU management will hold "brown bag" lunches to address employee questions, including those about team structuring and coverage. As part of project implementation, DDOU will provide each employee with a project handbook clarifying the project details published in the **Federal Register**.

Although the basic framework for the project team structure was developed before the hearing was held, information on the

layout of specific teams had not yet been fully developed. OPM will ensure that such information will be shared with employees when it is completed, that opportunity for employee feedback to DDOU management will be provided, and that required consultation with AFGE will be conducted prior to project implementation.

The purpose of the May 11, 1989, public hearing was to give concerned employees and others the opportunity to make their concerns known to OPM, DLA, AFGE Local 2721, and DDOU management. Employees who wished to present their views at the hearing were provided official time to do so. The purpose of the hearing was not to provide employees with additional information on the project, so DDOU management elected to provide official time only for those planning to comment. Additional opportunity was given to employees to express their comments in writing directly to OPM.

In addition to the hearing and written comments, other efforts are being made by OPM, DDOU, and DLA to solicit employee input into this project. Since the hearing, an evaluation team from the Navy Personnel Research and Development Center (NPRDC) has conducted group interviews with employees to solicit their opinions about the project. More interviews will be held and an employee attitude survey will be administered by the evaluation team to all DDOU employees prior to project implementation. Results of the survey and interviews will be presented to DDOU in order to identify further information needs.

2. Several individuals felt that management was attempting to force participation in the program. Some workers said they were told that the Depot might close if the proposal were not implemented. Although employees may choose whether or not to be included in the Skill-Based Pay (SBP) part of the program, some thought the project was structured to put those who choose not to participate at a disadvantage, through the denial of step increases. AFGE recommended that employees should not be given the option to refrain from participating in the SBP part of the demonstration. Some employees expressed concern that they would not have any choice regarding assignment to a particular team. Many employees felt that the decision to implement the proposal should be made by a majority vote of the employees.

DLA has no intention to close DDOU if the project is not implemented. Such an idea has never been a consideration.

Neither OPM nor DLA intend to force participation in the Skill-Based Pay (SBP) portion of the project. An employee's right to refrain from participating remains in the revised project plan. The language has been made more specific, however, to allow employees 90 days following implementation to make that decision.

The work organization of DDOU will be restructured into teams and a new compensation system (CS) will be implemented. Except for 11 work units listed in the revised project plan (see Table 5), all employees will be assigned to teams. They will still have the option, however, of choosing whether or not to participate in learning and performing all the skills on the new team under the SBP system. Anyone choosing not to participate in SBP will be placed on a team and permitted to perform the same duties they are currently performing. Team members will be compensated through the project pay system, which will not include step increases, but rather, will provide for pay increases based on acquisition of required skills and knowledge. The project was structured to ensure a significant opportunity for the vast majority to enhance their skills and pay.

Although assignment to specific teams will be a management decision, implementing regulations are being negotiated that will provide employees with a mechanism for resolving concerns regarding their assignment to teams.

A number of management initiatives are being undertaken in DLA to lead the way into the 1990's. These include total quality management (TQM), gainsharing, team structuring, and various personnel management changes. As management initiatives, they are not subject to a majority vote; however, as moves toward greater employee involvement and participation, their success depends on acceptance by and involvement of the work force. Such is the case for this demonstration project. While implementation will not be based on a majority vote, input from employees and the union has and will continue to influence project decisions.

3. Several employees indicated that they did not consider AFGE Local 2721 to represent their interests.

The employees of DDOU constitute a "bargaining unit" under Federal labor relations law, for which AFGE has been granted the power of "exclusive representation." Further representation is provided by the DLA Council of AFGE Locals, which has a master agreement with DLA providing representation for employees at all of DLA's depot facilities. AFGE national headquarters is also committed to seeing that employee interests are represented in the development of this project.

Organization Structure

1. Concern was expressed that the changeover to a team organizational structure would have adverse effects on productivity because (1) reducing individual responsibility would encourage employees to decrease work effort; and (2) the SBP/PWE initiatives might result in the extensive delegation of duties to workers with little experience. Respondents also felt that differences among workers in personality and level of commitment to the job would pose problems for communication, decision-making, and division of labor within teams.

One of the basic premises of the project is to demonstrate that the team structure increases productivity through increased organizational flexibility. Individual accountability should result from increased employee participation and ownership. Since this is an important hypothesis underlying this demonstration project, DDOU's success in achieving this objective will be closely monitored. Increased assumption of duties by team members will be a gradual process and dependent upon appropriate training and team development.

To avoid some of these concerns, project implementation will include formal training for all employees in group dynamics, problem solving, and communications. The project plan has been revised to more clearly indicate the coverage and timing of project-related training.

2. Several employees felt that the new team settings and the certification process would render employees more vulnerable to harm from fellow employees, as such settings would allow team members (and especially the team leader) to act arbitrarily.

The intent of this project is to form cohesive teams in which all members work harmoniously to achieve common goals. PWE concepts such as greater employee involvement and peer input are intended to provide team members greater protection from arbitrary decisions than is afforded in today's work environment. Features such as observation of demonstrated proficiency by the team leader and at least one certified team member have been included in the program to ensure that arbitrary certification decisions are not made.

3. AFGE suggested that team size should be limited to 20 to maintain the effectiveness of aspects of PWE such as peer review and the revised performance evaluation system.

Given the diversity of functions supporting DDOU's mission, DDOU management considered it impractical to establish a maximum team size. However, DDOU, in consultation with AFGE, is structuring teams in recognition of the importance of a manageable size that facilitates good communication and group dynamics. Although final team structures have not yet been established, nearly all the proposed teams are under AFGE's proposed limit of 20.

4. Several employees proposed that the members of each team should choose their team leader.

This recommendation has been addressed in the revised project plan as a possible future team responsibility as teams mature and develop.

5. Two employees expressed concern over the mixing of WG and GS work on the same teams.

With the increased reliance on mechanization and automation, DLA finds the dichotomy between WG and GS in its supply and distribution functions is becoming

more and more artificial. Private sector organizations implementing SBP programs have successfully done away with the traditional pay system distinctions. The demonstration project will be testing the hypothesis that mixing WG and GS work on the same teams will have positive outcomes for the workers and the organization.

Classification

1. AFGE recommended that classification appeals regarding the levels of difficulty should be accepted in cases where the majority of the team feels one is warranted and should not require unanimous team backing to be considered.

The project plan has been changed in response to this recommendation to indicate that classification appeals will be accepted when the majority of the team concurs.

2. AFGE recommended adding a sixth pay band to provide pay rate ranges above the current maximum of GS-11, Step 10.

The project plan provides for the possibility of adding of more pay bands should additional ranges be required; however, such a project modification would require OPM approval and publication of a project amendment in the Federal Register.

Compensation

1. Concern was expressed that a pay system that does not reward length of service would be unfair to older employees. Because there would be no wage increases for an employee at the top level of a pay band (except through promotion to a higher band), employees would lack something to look forward to and would have little incentive to improve productivity or to stay at the Depot.

The pay bands and the pay levels within these bands have been designed to provide a positive incentive for employees to learn the multiple skills on a team, and thereby to earn higher levels of pay. For the majority of positions at DDOU, the incentives for learning new skills exceed those available under the current system.

In almost all cases, employees whose current pay rate would exceed the top of a proposed pay band are already at the top step of their grades. As an incentive to participate in SBP, these employees will be offered at one time bonus of 10 percent of their annual base salary for successful certification in all team job functions.

2. AFGE recommended that employees at trainee level positions in bands 4 and 5 should be paid trainee wages for no longer than 12 months before moving to pay level 1.

Past experience at DDOU under the current system for training inexperienced employees for these positions indicates that 24 months is a reasonable time to learn the requisite skills for entry into these two pay bands. The description of trainee level positions in the "Hiring" section of the project plan has been reworded to clarify this issue.

3. Concern was expressed that "grandfathered" employees would actually lose pay in real terms under the project provisions giving them only 50% of future comparability increases.

The "Grandfathered/Saved Pay" section in the project plan has been revised to provide modified saved pay provisions for grandfathered employees. These employees will receive the full comparability increases given General Schedule employees until termination of the project, when current saved pay provisions will apply.

4. Two respondents recommended that time spent by employees in training courses should be considered part of paid work.

All formal training which is required by the project will be considered part of paid work and will be accomplished during duty hours.

5. Commenters felt that arrangements should be made for employees at certain positions within the Depot to receive special compensation for job-related risks.

Under the project, current Federal Wage System employees who are assigned to teams with work assignments that expose them to unusually severe hazards or working conditions that currently qualify for "environmental differential" under 5 CFR 532.511 will be eligible to receive a 25% "hazard pay differential" for all hours in a pay status, as is currently the case for General Schedule employees under 5 CFR 550, subpart I. The project plan has been amended to state this more clearly.

Performance Evaluation

1. Respondents pointed out that the new evaluation system still allows room for bias, favoritism, and enmities to come into play. They suggested that fellow employees could be just as influenced by these non-performance factors as managers.

The demonstration project will be testing the hypothesis that these concerns are not warranted. The use of peer appraisals is expected to reduce the potential for bias and favoritism in performance evaluations. The project evaluation will be closely monitoring employee perceptions of the fairness of the new evaluation system.

2. AFGE recommended deleting two items from the Team Participation Performance Standards for evaluations of individual employee performance: (1) "Constructive participation in group meetings" and (2) the "initiative to perform additional team functions not specifically assigned." The union considered both items, as stated in the original project plan, potentially unfair to certain employees.

As a result of this recommendation, the criterion "constructive participation in group meetings" has been changed to "constructive participation in meeting team requirements." "Initiative to perform additional team functions not specifically assigned" has been deleted. Corresponding changes have been made in the project plan.

3. Several suggestions were offered by AFGE regarding the mechanics of evaluation: (a) Peer evaluations should be constructed on a strictly confidential basis; (b) the team leader should be evaluated by all team members as well as by supervisory personnel; and, (c) the evaluation of supervisors should include an assessment of group development, group evaluations of the supervisor, and supervisor peer appraisals.

Several changes to the project plan have been made in response to these suggestions. Peer evaluations will now be confidential. Managers will consider input to a team leader's appraisal by team members as well as peers. Also, team leader performance standards will now include an assessment of team performance.

Incentives/Recognition

1. One employee recommended that individual rewards should be de-emphasized to cultivate a work environment more conducive to cooperative teamwork. Individual rewards might encourage employees to pay excessive attention to individual performance at the expense of team performance. AFGE recommended not linking individual rewards with team performance. They expressed the view that individual rewards should be based purely on individual performance, regardless of the performance of the team as a whole.

The primary incentive award system under the project will be a gainsharing program based on the performance of the entire depot. Individual top performers whose teams are rated fully successful may receive additional paid leave under an incentive leave program for exceptional employees.

2. AFGE recommended deleting from the proposal the option of allowing employees to decline gainsharing bonuses.

Details of the gainsharing program are outlined in the 1990 Success Share Program regulations (DLAR 7070.3) as negotiated between DLA Headquarters and the DLA Council of AFGE locals. Consistent with these regulations, the option of allowing employees to decline gainsharing bonuses has been deleted.

Training/Job Knowledge Certification

1. Several respondents expressed concern that grandfathered employees will not be given enough time to be certified in the required skills. Under the

proposal, they would have only 1 year to be certified in all of a team's skills.

Based on this comment, the project plan has been modified to show that grandfathered employees will have to meet the same maximum time gate requirements (39 months) as other team members for certification in the team's required skills.

2. A recommendation was made that employees shouldn't have to undergo certification for skills that their present job already requires them to know.

The certification process, which is being instituted at all DLA depots, requires employees to be certified in all skills, including their present skills. This is to ensure that procedures are understood, and that proper training is received. The primary difference between certification under the demonstration project and certification at other depots will be the linkage under SBP between certification and base pay increases.

3. AFGE recommended allowing more flexibility on maximum time limits for skill acquisition on different teams and at different levels since the amount of time needed could be expected to vary. There were also several suggestions that maximum time limits on skill acquisition should be stretched from what they are in the current proposal. One commenter suggested allowing employees 3 months leeway for each skill level for which he or she attempts to complete training, so that the maximum time an employee would have to become certified for all team skills would be raised from 39 to 45 months.

No change has been made to the project plan. DDOU will assign duties to teams so that all necessary skills can be learned in 36 months. The skills assigned to a team will be adjusted by DDOU if experience shows the skills originally assigned cannot be learned in 36 months. The minimum and maximum time limits for skill acquisition and certification were developed by DDOU based on considerable research and contact with employers in the private sector using skill-based pay. Although there will be obvious differences in levels of difficulty between the duties assigned to different teams, these will be compensated for by the differing pay bands.

4. AFGE suggested that management should establish a program to ensure that employees can obtain the basic reading and study skills necessary to complete training successfully.

As is true under the current system, employees under the demonstration project who require basic reading or writing skills will be able to receive this training by contacting DDOU's Employee Assistance or Career Development Offices.

Inclusion in the Project

1. Several employees and AFGE recommended not assigning to teams or including in the SBP program positions that they felt were too highly specialized. Such positions included electronics mechanic, high voltage electrician, operations room positions in DDOU's Office of Telecommunications and Information Systems, and general commodities inspector. Other reasons for excluding particular positions from the project included: The high cost of security clearances; a required skill mix that would take more than three years to master; the impossibility of valid skills certifications because these positions require continual adaptation to new developments; the likelihood that standardized training and certification would de-emphasize the importance of worker ingenuity; and, probable retention problems among skilled personnel because of decreased promotional opportunities.

The project plan has been amended to show which organizations will be excluded from the skill-based pay portion of the demonstration project (under III. Methodology, A. Organizational Structure). In all, 92 current positions in 11 work units will not be part of the SBP program. Some highly specialized positions will be excluded from the SBP compensation system because they do not properly fit on teams. These jobs will remain under the current system. Other positions will be administratively excluded for various reasons, including several of those cited in the comments.

2. Several employees expressed the opinion that those near retirement would have little incentive to participate. These employees felt that the project would be unfair to older employees who have worked hard for many years to attain responsibilities and compensation levels that others will be able to reach in 3 years or less. Employees near retirement may not want to learn a completely new set of rules, and are concerned that they may be forced out to cut costs. Such employees would be unlikely to gain from the gainsharing initiative because the demonstration project would not be expected to pay for itself for three years. They would not have time to benefit much from pay gains for learning skills and would thus have little incentive to undergo training. A suggestion was offered that DLA allow for early retirement with a bonus for those near retirement to provide a way to opt out.

Although there may be no significant financial reward for participation on the part of these employees, other incentives may be available. One goal of the project is to improve employees' satisfaction with their work through enhanced participation, learning a variety of skills, enhancing qualifications, and participation in the management of their work. Employees who opt *not* to participate at the time of implementation may reverse their decisions and choose to participate in the SBP program any time during the first 90 days of the project.

With regard to gainsharing, DLA recognizes additional development and implementation costs for the first three years. These increased costs should not preclude the depot from paying gainsharing awards for productivity improvement. However, the initial start-up costs make a bonus less likely during the first two years of the project. To increase the likelihood of gainsharing payouts in the early years of the project, some of the additional start-up costs will be amortized by DLA over a longer period of time.

There is no provision in the law authorizing personnel demonstration projects allowing changes in the retirement system. Under current requirements, implementation of the demonstration project at DDOU will not constitute justification for early retirement.

3. Many of the comments received were from WG–7 inspectors. Among other concerns, these employees expressed the opinion that there was no incentive to participate for those who are already doing the highest level work in their anticipated team and who are already at or near the highest pay level in their anticipated pay band.

This group of employees does not expect to gain financially, although there may be a small increase to the top of the anticipated pay band. However, they can benefit financially through the gainsharing program. Additionally, each member will have the opportunity to participate in a new way of organizing and performing work and to apply for promotion to positions on teams at higher pay bands.

In addition to the comments listed under the categories above, there were other questions and concerns expressed which the revised project plan answers.

D. Other Demonstration Project Changes

In addition to the modifications cited above, several editorial changes and clarifications have been made to the project plan. Major changes are listed below. Please refer to the actual text of the project plan for additional specific changes.

(1) Under "Classification," the description of the Master Classification Standard has been changed. The Standard will encompass only one factor (as opposed to two in the original project plan). The factor addresses the knowledges and skills required for a team. This technical change was made to create an alternative to traditional classification that is more consistent with the Skill-Based Pay program.

(2) The assessment period for individual performance evaluation has been changed to 12 months (as opposed to 6 months in the original project plan) based on performance standards in effect at least 90 days. The rating of Fully Successful will be presumptive

and automatic, requiring no further action by the team leader.

(3) The evaluation plan has been revised to reflect input from the Navy Personnel Research and Development Center (NPRDC), the external evaluation team.

Constance Berry Newman,

Director, U.S. Office of Personnel Management

The demonstration project plan as approved by the Office of Personnel Management reads as follows:

A Public Sector Skill-Based Compensation Program in a Participatory Work Environment

A Proposal for an Office of Personnel Management Demonstration Project

Submitted By Defense Depot, Ogden, UT, A Primary Level Field Activity of the Defense Logistics Agency Department of Defense

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I. Executive Summary

Purpose

This project was developed by the Defense Logistics Agency (DLA) in response to Executive Order 12552 "Productivity Improvement for the Federal Government" (February 25, 1986) and House Appropriations Committee Report 99-332, both of which call for new ways to increase quality, timeliness, and productivity. The demonstration project will test the effectiveness of a Skill-Based Pay (SBP) compensation system, combined with other organizational structure and personnel system changes designed to bring about a more participatory work environment (PWE) in a Federal installation. Private sector organizations have used SBP systems and PWE concepts successfully in a variety of settings to achieve greater workforce flexibility, leaner staffing, higher quality output, greater long term productivity, and enhanced employee motivation and commitment.

Participating Organization

Defense Depot Ogden, Utah (DDOU) will be the test site for this demonstration project, which is projected to run for 5 years. DDOU is one of six DLA sites performing similar functions.

Types and Numbers of Participating Employees

The demonstration will cover all employees at DDOU, which (as of September, 1989) includes 558 non-supervisory General Schedule (GS) employees, 89 supervisory GS and Performance Management and Recognition (PMRS) employees, 932 non-supervisory Federal Wage System (FWS) employees, and 58 Wage Supervisors, for a total of 1637 eligible employees.

Labor Participation

Employees at DDOU are represented by the American Federation of Government Employees (AFGE) under a master contract between DLA and the DLA Council of AFGE locals, which gives the Council exclusive recognition for employees at all of DLA's depot facilities. AFGE Local 2721, whose local agreement supplements the master contract, has been involved in the development of the project since its inception. The president of AFGE Local 2721 is a member of the project steering committee.

Methodology

Under the demonstration project, DDOU will implement a system of interrelated organizational structure and personnel system changes. Specific interventions will include:

(a) Restructuring the workforce into teams of multi-skilled individuals, such that each team is responsible for a total product, service, or process; all team members will have equal opportunity to learn and perform all the job skills necessary to achieve the team's objectives.

(b) Classifying positions at the team, rather than the individual, level based on a simplified system that integrates work previously classified under both the General Schedule and the Federal Wage System; work performed by teams will be classified based on the knowledges and skills required.

(c) Establishing a skill-based compensation system consisting of five pay bands; advances within a pay band will be based on the acquisition of necessary skills and knowledge, meeting appropriate minimum time requirements, and having a Fully Successful or higher performance rating.

(d) Implementing a performance evaluation system that uses three summary performance levels and incorporates subordinate and peer input; the system will provide for ratings of both team and individual performance.

(e) Using an incentive/recognition program that includes productivity gainsharing for all employees and the option of paid leave in lieu of monetary incentives.

(f) Establishing a formal job knowledge certification program.

(g) Creating an alternative disciplinary procedure for minor offenses under which managers may substitute non-punitive "letters of discipline" for formal disciplinary procedures.

Training and Implementation

This project will represent a significant change in management and employee practices, and adequate training will be essential to successfully transform programs and attitudes. Training will be provided to all employees in project concepts and changes, group dynamics, team building, problem solving, and communications. Team leaders and managers will receive additional training in leadership skills.

Employee Protection

The project will provide for full employee protection on enty into and exit from the demonstration system. In no case will an individual's current salary be reduced as a result of these changes.

Evaluation

A comprehensive and methodologically rigorous evaluation will be conducted by an external evaluator with Office of Personnel

Management (OPM) oversight. The objectives of the evaluation will be to assess project outcomes and determine the applicability of project changes to other Federal installations.

Benefits of the Proposed Project

The project is expected to demonstrate that an SBP system can be successfully implemented in a Federal installation in a way that increases employee involvement in work-related decisions, enhances the flexibility of the workforce, improves quality and on-time performance, and reduces operating costs.

II. Introduction

A. Background

Over the last several years, an innovative approach to employee compensation which encourages and rewards employee growth and skill development has evolved in the private sector. This alternative to traditional compensation systems is known by a variety of names. Frequently called Skill-Based Pay (SBP) or Pay For Knowledge, it bases employee pay on the acquisition of required skills rather than on the performance of a specific job.

Through the integration of SBP plans into the organization, companies such as General Motors, Proctor & Gamble, Sherwin-Williams and others have improved the skills and abilities of their work force, enhanced their ability to shift employees according to workload demands, and have reduced total employment levels.

In addition to SBP, industry has introduced team structures and has used participatory work practices to enrich the work experience. These work innovations have improved both employee and organizational performance, e.g., employees gain opportunities for challenge, achievement, growth and development while organizational productivity is enhanced through increased output, quality, lower costs, and improved employee morale and motivation.

The intent of this project is to demonstrate that private sector flexibility in resource management can be applied to the public sector. It is also expected that the creation of an enriched work environment will stimulate the organization to respond creatively to the need for increased efficiency and effectiveness. No aspect of implementation will be effected until all appropriate bargaining responsibilities with the union have been met.

This demonstration project responds to the goals of 1986 Executive Order 12552 on Productivity Improvement. It also answers the request contained in House Appropriations Committee Report 99/332 to study and propose test plans to alleviate productivity losses resulting from classification and compensation constraints.

B. Problems with the Existing System

Classification

The complexity of the current Federal classification system has a negative impact upon management's success in developing a productive and efficient work force. It contains numerous classifications by occupation and grade level within both the General Schedule (GS) and Federal Wage System (FWS) pay systems. These classifications encourage narrow job designs which limit the types and numbers of skills an employee acquires and uses. This classification system serves to restrict management's capability to meet fluctuations in workload or changing mission requirements, even though mixed work is not prohibited under the current system.

Besides being complex, the current classification system is time-consuming to administer. It is perceived as delaying recruitment and transfer actions, which reduces productivity and management effectiveness.

This project will employ a simple and flexible classification/compensation system based on broad groupings of GS and FWS skills and knowledge. This system will encourage the assigning of a wider variety of work to each employee. Each employee will have the opportunity to acquire a variety of skills, thus promoting a flexible, multi-skilled work force. This concept, coupled with a team organization structure, will minimize the need for supervisory layering and will result in a leaner work force.

Staffing

The current system for promoting employees is time consuming. Once a position becomes vacant within the organization, a domino effect in competitive actions is created when filling behind it.

Under the demonstration project, broad pay bands will cover work previously assigned to more than one grade level under current systems. Advancement from one pay level to another within the pay bands will be based on acquiring relevant skills and demonstrating performance rather than competitive selection. Employees will compete only for promotions to higher pay-banded teams or to team leader positions.

Performance Evaluation

Although a study conducted by the Merit Systems Protection Board (MSPB) in 1988 on the effectiveness of performance management in the Federal government concluded that the program was basically sound in concept, some problems have diminished its effectiveness. Among these are the lack of good performance feedback; the perception that good performance has no real impact on pay decisions; and perceptions of inequity and favoritism. Moreover, the inflated distribution of performance ratings in many Federal agencies suggests the presence of bias in the assignment of ratings.

An intent of this project is to increase the meaningfulness of performance evaluation. The project's performance appraisal system will allow for peer input. The quality of performance will be assessed at both the individual level and the team level. Employee's base pay increases will be based on both the skills they have acquired *and* the quality of their performance.

Organization

Many public sector organizations are hierarchically arranged with a functional and highly specialized structure in which the work force labors in distinct, often narrowly defined, jobs. In applying this division of labor principle, work has been traditionally divided into "thinking" and "sweating" jobs. Consequently, organizations are structured and jobs are designed in ways which discourage a majority of employees from using their creativity and problem-solving abilities to serve the organization.

The proposed team structure is expected to be more efficient and adaptable than the current system of individual jobs and the fragmented "assembly line" approach. The project's skill-based compensation system and participatory work practices, accompanied by changes in organizational structure, are also expected to promote job enrichment, work force development, and creative problem-solving.

C. Purpose

This project will demonstrate how a participatory work environment with a skill-based compensation system can enhance the effectiveness of public sector organizations by creating a more interactive and knowledgeable work force. To accomplish the stated purpose of the demonstration project, the

following specific objectives must be achieved:

- Increase employee involvement in day-to-day decision processes,
- Improve the flexibility of the work force to respond to workload changes,
- Improve product/service quality and timeliness, and
- Reduce the overall cost of Depot operations.

D. Changes Required

In order to accomplish this purpose, changes are proposed that include:

- Participatory Work Environment.
- Multi-Skilled Work Teams.
- Skill-Based Pay.
- Work force Certification Program.
- Job Series and Grade Consolidation.
- Pay Banding.
- Gainsharing.
- Incentive Leave.
- Revised Performance Evaluation.
- Alternative Disciplinary Procedures.
- Streamlined Organizational Structure.

Anticipated effects of these changes include:

- Broadened skill levels.
- Increased employee involvement.
- Enhanced job-related attitudes.
- Increased workforce flexibility.
- Increased timeliness and quality.
- Increased productivity.
- Decreased productivity losses due to disciplinary actions.
- Reduction of staffing levels through attrition.

E. Participating Organization

The project will be conducted at the Defense Depot Ogden, Utah for a period of 5 years. Approximately 1600 employees in a broad range of technical, professional and nonprofessional series will be involved. The skill-based pay provisions of the project will only apply to full-time permanent and part-time permanent employees. Temporary, term, and non-appropriated fund employees will not participate in the skill-based pay portion of the project.

As one of six major distribution depots within the Defense Logistics Agency, the mission of Defense Depot Ogden is to provide effective and economical support of assigned common supplies and services to the Military Departments and other DoD components. DDOU also supports Federal civilian agencies as provided for in inter-agency support agreements, and three major tenant activities: The DLA Systems Automation Center, the Defense Reutilization and Marketing Region and the Army's Continental Communications Support Center. Current mission workload of 300,000 average annual receipts and 3.1 million average annual issues is supported by an 835,000 line-item inventory valued in excess of $1.2 billion.

F. Participating Employees

All employees at DDOU will be involved in some aspect of the demonstration project. Every position will be considered for possible inclusion in a team structure under the Skill-Based Pay concept. The entire work force is expected to contribute and benefit from the participatory work environment initiatives. Table 1 is a listing of the number of employees, by series, currently employed by DDOU.

TABLE 1—NUMBERS AND TYPES OF EMPLOYEES CURRENTLY EMPLOYED AT DDOU

[As of September, 1989]

Series	Titles	Number of Employees
0018	Safety and Occupational Health Management	3
0019	Safety Technician	2
0028	Environmental Protection Specialist	1
0080	Security Administration	3
0081	Fire Protection and Prevention	13
0083	Police	34
0099	Computer Clerk (Trainee)	3
0188	Recreation Specialist	1
0189	Recreation Aid and Assistant	4
0201	Personnel Management	3
0203	Personnel Clerical	8
0204	Military Personnel Technician	2
0212	Personnel Staffing	7
0221	Position Classification	7
0230	Employee Relations	3
0235	Employee Development	2
0260	Equal Employment Opportunity	2
0301	Miscellaneous Administration	4
0303	Miscellaneous Clerk and Assistant	10
0305	Mail/File	3
0318	Secretary	41
0322	Clerk Typist	27
0332	Computer Operation	19
0334	Computer Specialist	17
0335	Computer Clerk and Assistant	10
0340	Program Manager	1
0342	Support Services Administration	1
0343	Management Analyst	25
0344	Management Clerical and Assistance	13
0345	Program Analysis	8
0350	Duplicating Equipment Operator	1
0356	Data Transcriber	8
0382	Telephone Operator	5
0391	Communications Management	1
0392	General Communications Equipment	3
0393	Communications Specialist	1
0394	Communications Clerical	1
0501	MWR Financial Administrator	1
0503	Financial Clerical & Assistance	1
0505	Financial Management	1
0510	Accounting	3
0511	Auditing	8
0525	Accounting Technician	8
0530	Cash Processing	3
0540	Voucher Examining	8
0544	Payroll	6
0560	Budget Analysis	3
0690	Industrial Hygiene	1

TABLE 1—NUMBERS AND TYPES OF EMPLOYEES CURRENTLY EMPLOYED AT DDOU—Continued

[As of September, 1989]

Series	Titles	Number of Employees
0699	Health Technician	1
0801	General Engineer	7
0802	Engineering Technician	3
0818	Engineering Drafting	3
0855	Electronic Engineer	1
0856	Electronics Technician	6
0895	Industrial Engineering Technician	2
0899	Engineering and Architectural Trainee	2
0905	General Attorney	1
0986	Legal Clerk & Technician	1
1020	Illustrator	1
1035	Public Affairs	2
1087	Editorial Clerk	1
1102	Contracting	10
1105	Purchasing	1
1106	Procurement Clerical & Assistant	5
1152	Production Control	13
1411	Library Technician	1
1601	General Facilities & Equipment	2
1670	Equipment Specialist	3
1750	Instructional Systems Specialist	2
1910	Quality Assurance	26
2001	General Supply	4
2003	Supply Program Management	7
2005	Supply Clerical & Technician	110
2030	Distribution Facilities & Storage Management	24
2032	Packaging	3
2101	Transportation	1
2130	Traffic Management	4
2131	Freight Rate	14
2132	Travel Clerk	1
2134	Shipment Clerical & Assistance	28
2135	Transportation Loss and Damage Claims	6
2151	Dispatching	3
2502	Telephone Mechanic	3
2604	Electronics Mechanic	3
2606	Electronic Industrial Control Mechanic	9
2805	Electrician	8
2810	Electrician (High Voltage)	1
2854	Electrical Equipment Repairer	6
3105	Fabric Worker	8
3106	Upholstery Worker	1
3111	Sewing Machine Operator	2
3341	Scale Worker/Mechanic	1
3414	Mechanic	1
3502	Laborer	70
3546	Railroad Repairer	1
3566	Custodial Worker	22
3610	Insulator	1
3703	Welder	1
3725	Battery Repairer	1
3806	Sheet Metal Mechanic	3
3809	Mobile Equipment Metal Mechanic	1
4102	Painter	9
4104	Sign Painter	1
4204	Pipefitter	7
4206	Plumber/Plumbing Worker	2
4602	Blocker and Bracer	5
4604	Wood Worker	10
4605	Wood Crafter	1
4607	Carpentry Worker/Carpenter	7
4806	Office Appliance Repairer	2
4816	Safety Equipment Repairer	1
4850	Bearing Reconditioning Inspector	1
5003	Gardener	1
5026	Pest Controller	2

TABLE 1—NUMBERS AND TYPES OF EMPLOYEES CURRENTLY EMPLOYED AT DDOU—Continued

[As of September, 1989]

Series	Titles	Number of Employees
5210	Rigging Worker	3
5301	Miscellaneous Industrial Equipment	1
5306	Air Conditioning Equipment Mechanic	2
5352	Industrial Equipment Repairer/Mechanic	38
5402	Boiler Tender	10
5413	Fuel Distribution System Worker	2
5423	Sandblaster	2
5435	Carton and Bag Maker Machine Operator	2
5439	Test Equipment Operator	3
5703	Motor Vehicle Operator	28
5704	Fork Lift Operator	9
5705	Tractor Operator	4
5716	Engineering Equipment Operator	5
5725	Crane Operator	2
5803	Heavy Mobile Equipment Mechanic	1
5806	Mobile Equipment Servicer	1
5823	Automotive Worker	11
5876	Electromotive Equipment Worker	2
6901	General Commodities Inspector	52
6904	Tools and Parts Attendant	4
6907	Warehouse Worker	328
6912	Material Sorter and Classifier	47
7002	Packer	241
7004	Preservation Packer	8
Total		1,637

G. Labor Participation

Employees at DDOU are represented by the American Federation of Government Employees (AFGE) under a master contract between DLA and the DLA Council of AFGE locals, which gives the Council exclusive recognition for employees at all of DLA's depot facilities. AFGE Local 2721, whose local agreement supplements the master contract, has been involved in the development of the project since its inception. The president of AFGE Local 2721 is a member of the project steering committee. AFGE represents all depot employees except professional employees, management officials, supervisors, employees engaged in Federal personnel work in other than a purely clerical capacity, and temporary employees.

III. Methodology

A. Organization Structure

Under the demonstration project, teams will be the basic units of the organizational structure. Each team will consist of a group of employees with common objectives who have the opportuntiy to learn and perform all job requirements of the team. There are several reasons why this approach fits well with SBP/PWE. First, the team approach provides an opportunity for employees to acquire more skills since the skills are grouped together on a functioning team. Second, teams provide a way of organizing work in a meaningful fashion by simplifying the handling of an entire process or whole unit of work. And third, teams are a way of institutionalizing participatory work practices and the exchange of information.

Team Structuring

Teams will be formed by combining functions so that a team can influence and be responsible for a total product, service or process. Teams will consist of groups of employees responsible for achieving the objectives assigned to the team. Each team will have an entry level requiring basic qualifications. Teams will be structured so that team members can learn job knowledge requirements within 36 months. Some functions such as those requiring highly specialized skills/knowledge will continue to be performed and compensated under the current system. Although excepted appointing authorities will not automatically limit participation in multi-skilled teams, the specialized requirements inherent in the coverage of the authority (*e.g.*, attorneys, experts and consultants) must be considered to ensure no work is assigned that is clearly outside this coverage.

The transition from the traditional organization structure to a multi-skilled team structure will require analysis of the work processes/products. Examining the work flow and mixing compatible skills to provide adequate flexibility in shifting the work force to workload demands will increase productivity through improved effectiveness and efficiency. Team size may vary but should not be so large that it is unmanageable. Group interaction and the communication process must not be adversely affected by team size (e.g., either too large or too small). Teams will consist of employees with multiple skills, organized to promote the goals of the team, satisfy the needs of individual members, and create team synergism. Team structuring will consider elements integral to team work to include work processes, skill mix, work flow, and the sharing of a common function/product/service. Tables 2 through 4 show examples of skill mixes that will achieve these objectives.

Table 2.—WAREHOUSE TEAM TBCB 1

Current series	Current title	Number of team members
	Team Leader	1
WG-6907	Warehouse Workers	4
WG-7002	Packers	6
GS-2005	Supply Clerk (Inv/Loc Audit).	1
Total		12

Critical Job Functions:

*Select stock from bin areas, checking location, stock number, quantity, units of issue, unit pack.

*Selects proper location and stows stock, checking shelf life, security items, condition code, completes documentation.

*Operates a forklift and/or assorted mechanical handling equipment (MHE) to unload, move, stack, palletize and arrange materials.

*Periodically checks stock to determine if packaging, protection, etc. is correct.

*Periodically conducts physical inventory and location audits, checking, national stock number (NSN), labels, amount, etc.

*Packs, repacks, and unpacks a variety of tools, parts, equipment and other items. Packing medical material for freight, parcel post shipments.

*Packing process completed and documentation entered into computer.

*Labels locations by attaching preprinted labels to locations.

*Checks NSN on label against NSN on material on location, requests corrections as required.

*Develops graphs and charts through tracking statistics, to identify trends that determine if the team is operating within designated parameters.

*Performs surveillance inspection.

CS Pay Band—3

TABLE 3.—RECEIVING PPPP&M TEAM 1

Current series	No. of team, current title	Members
	Team Leader	1
WG-7002	Packer	9
WG-7004	Preservation Packager	3
WG-4102	Painting Worker	1
WG-4104	Wood Worker	1
WG-6907	Warehouse Worker	1
Total		16

Critical Job Functions:

*Operates a forklift and/or assorted MHE to unload, move, stack, palletize and arrange materials.

*Packs, repacks and unpacks a variety of tools, parts equipment and other items. Packs medical material for freight and parcel post shipments.

*Applies preservatives to a variety of items for shipment or storage, by dipping, brushing, spraying and immersing in vats.

*Types stack labels, stencils, and similar documents either on a typewriter or computer equipment.

*Lays out, makes and repairs boxes, crates, pallets, and other wooden items.

*Paints and preserves wood and metal items using spray guns, brushes and rollers.

*Orders supplies and equipment and maintains storage area.

*Coordinates, processes, follows up on all personnel actions within the organization.

*Performs distribution control of automated data processing (ADP) input/output listings. Maintains/consolidates time and attendance records. Provides mail service and distribution, including correspondence control. Obtains duplicating, printing and graphic aid service. Maintains reference library of required publications and process requests for publications and forms. Gathers data and consolidates various statistical reports into a daily workload and production summary reports. Controls suspense for the team. Maintains supporting technical and administrative data. Performs typing tasks, mailing of documents, maintains microfiche libraries, and performs microfilming/microfiche of documents.

*Selects proper location and stows stock, checking shelf life, security items, condition code, completes documentation.

*Develops graphs and charts through tracking statistics, to identify trends that determine if the team is operating within designated parameters.

*CS Pay Band—3.

TABLE 4.— RECEIPT ADMINISTRATION TEAM

Current series	Current title	Number of team members
	Team Leader	1
GS-0318	Secretary (Typing)	3
GS-2005	Supply Clerk	4
GS-0322	Clerk Typist	8
Total		16

*Critical Job Functions:

*Coordinates, processes, follows up on all personnel actions within the organizations. Performs distribution control of automated data processing (ADP) input/output listings. Maintains/consolidates time and attendance records. Provides some mail service and distribution, including correspondence control. Obtains duplicating, printing and graphic aid service. Maintains reference library of required publications and process requests for publications and forms. Gathers data and consolidates various statistical reports into a daily workload and production summary reports. Controls suspense for the organization. Maintains supporting technical and administrative data. Typing, mailing of documents, maintains microfiche libraries. Microfilming/microfiche of documents.

*Receives and segregates incoming mail: prepares outgoing mail.

*Maintains records and files to include suspense files.

*Maintains follow-up suspense file and initiates follow-up on orders, documents receipts of supplies and equipment.

*Develops and maintains records.

*Receives and initiates correspondence by screening material, establish suspense controls, typing, proofreading, as to format and procedure.

*Receives, controls and processes due-in and receipt documentation for the major commodity managers.

CS Pay Band—2.

The number of skills assigned to teams will correlate with the number of skills an employee can reasonably learn. This consideration is based on the fact that pay levels will be linked to the number of skills an employee learns and the requirement to remain reasonably proficient in acquired skills.

Effort will be made to reach a balance so that the number of job knowledges/skills does not exceed an employee's ability to learn these knowledges/skills within 36 months. Every effort will be made to maximize the team concept. Skill-based pay teams will not be formed just for the sake of creating teams. The guidelines that were established in structuring teams must apply, i.e., team size, ability to master and be certified in multiple team functions within a 36 month period, exclusion of specialized skills, etc. Table 5 shows the organizations that will not participate in the skill-based pay portion of the demonstration project because they do not conform to the above guidelines.

In addition, because of the tremendous workload anticipated for project start-up, the Office of Civilian Personnel will not move into the SBP team structure until one year after project implementation.

TABLE 5.—ORGANIZATIONS TO BE EXCLUDED FROM THE SKILL-BASED PAY PORTION OF THE DEMONSTRATION PROJECT

Organization	Number of employees
Public Affairs Office	4
Internal Review Office	8
Equal Employment Office	2
Safety & Health Office	6
Office of Counsel	2
Security Operations Division	7
Custodial Branch	21
Comm. & Family Activities Div	12
Administrative Services Division	11
AIS Management Division	10
Technology Division	9
Total	92

Skill Groupings

There are three basic types of skill groupings around which an SBP/PWE system can be organized. Under the demonstration project, any combination or number of the different skill groupings may exist on the same team.

1. Horizontal—skills upstream or downstream within a functional process or other skills horizontal to the tasks individuals already perform, *e.g.*, receiving and warehousing in a distribution process.

2. Vertical—skills above or below a functional process, or other skills vertically upward or downward, *e.g.*, a skilled employee could take on data entry skills (downward) or management skills (upward).

3. Depth—increased knowledge and skill within a job category or field, *e.g.*, skilled trades employees when individuals learn skills that allow them to perform their jobs in greater depth.

Degrees of Team Participation

The order in which job knowledges are learned may be structured or unstructured. A structured order of learning is referred to as "sequential" and is required when the acquisition of a new skill is dependent on the satisfactory acquisition of some previous skill(s). This is similar to the traditional apprentice, journeyman, master concept. Unstructured or non-sequenced skills simply means that they can be acquired in any order. The majority of teams are expected to have non-sequenced job knowledges. Table 6 shows the conceptual evolution of team participation. As terms develop, increased responsibility and team participation are demonstrated.

Team Responsibilities

Teams will become responsible for establishing team goals, evaluating team performance, and sharing information. As teams mature and develop, they will become more self-managing and progress to autonomous work teams in which members make most personnel and work-related decisions. As the project progresses, team members will participate in decision making, interviews and recommendations for selection, peer appraisals, equipment recommendations, work methods analysis, and day-to-day problem resolution.

TABLE 6.—DEGREE OF PARTICIPATION

Traditional Structure.	Supervisor makes individual decisions and assigns work. Employees perform.
Initial Work Team....	Team leader manages operation of work team. Team members share in work related decisions.
Autonomous Work Team.	Team leader/members share in personnel and work related decisions (PWE).

Team Leaders

Effective team leaders will be vital to the success of the teams. Team leaders will receive extensive training in team leader development, group dynamics, team building, and other interpersonal skills as identified in the Training Section of this plan. The team leader will be a working team member who provides leadership and cooperation to other team members. This leader will oversee team member development and obtain required training for team members. It will be up to the team leader to see that the group process is effective and that the work is accomplished through group processes. Team leaders will also assure that skills and individual rotation requirements are met. Team leaders will initially be selected by management from the current supervisory work force and will be considered "supervisors" in OPM's Central Personnel Data File (CPDF). As teams mature and develop, and as vacancies occur, management may change this designation, and appropriate pay adjustments may be made to reflect the different status.

Facilitators

As current supervisors assume new roles as team leaders, assistance and support will be required in performing their duties. A team of facilitators will provide this by interrelating with the team leader and team members. Facilitators will be competitively selected from the current work force through the use of assessment centers. Facilitators will receive intensive interpersonal and facilitator skills training. Responsibilities will include coaching team members in techniques of participative management, and evaluating and monitoring team development. Facilitators will assist teams in the following areas:

1. Monitoring team meetings,
2. Providing orientation and awareness training,
3. Evaluating and monitoring team progress,
4. Obtaining logistics support (meeting rooms, materials, etc.),
5. Assisting in obtaining technical resources as required,
6. Coordinating activities and events, and,
7. Apprising management and union of progress.

Work Facilitators

In addition, selected first-line supervisors from the existing workforce will serve as "work facilitators." These individuals will assist teams in the following tasks:

1. Solving work flow problems,
2. Monitoring work in progress,
3. Obtaining technical resources when needed,
4. Developing performance measures and goals,
5. Redesigning work methods,
6. Serving as an on-call expert to solve immediate problems,
7. Eliminating cross functional barriers,
8. Seeking ways to improve effectiveness and efficiency, and
9. Training and certification.

Management Role

SBP/PWE requires managers to help employees work together as self-managing teams to surpass prior mission accomplishments. The manager must be a catalyst, a source of advice and guidance, and a communicator. While an SBP/PWE management style incorporates elements of "traditional" management practices, the concepts ask more of the SBP/PWE manager. Successful managers under this project will have to generate and apply mission improvement ideas creatively and get the work done while promoting an environment that enables individuals to make contributions and, at the same time, realize their personal goals.

The SBP/PWE manager will need to facilitate work team operations by assuring the effectiveness of functional and management support systems and by counseling work team leaders on realizing team potential and individual employee growth. The SBP/PWE manager will be responsible for establishing goals and objectives which apply activity and agency program guidance. He/she will be expected to translate agency/activity goals and policy to the teams while simultaneously communicating team improvement ideas to other managers. The manager will also need to establish and maintain a viable dialogue with teams and other managers.

B. Classification

Under the new SBP/PWE system, the allocation of work to a specific team will be based on its contribution to a common product or service. Each work team may perform several kinds of work related to a given product, process, or service, and employees may be required to perform any or all of a wide variety of tasks encompassing work currently classified as either FWS or GS.

The SBP system will involve a simpler classification system under which teams, not positions, will be classified. Because a single team may be responsible for work that was traditionally classified under both blue and white collar systems, a single classification system will be used for all teams. Skill levels under the new system will focus on those key features of team functions which are common to both blue collar and white collar occupations. Because team descriptions will include a broader range of work than current individual position descriptions, fewer distinctions among skill levels will be necessary.

Classification Standards

The present system of classification standards for both Wage System and General Schedule positions will be replaced by a highly streamlined system under the demonstration project. Knowledges and skills required by the team will be evaluated using skill levels and a conversion table. Because project employees will work as participative members of multi-skilled teams, sharing in work-related decisions unencumbered by rigidly defined roles and work methods, this one factor is considered adequate to describe the differences among the broad classification levels. For demonstration purposes, the standard used to classify team descriptions will be referred to as the Master Standard.

Team Descriptions

When teams are formed, individual position descriptions will be replaced by team descriptions. Every member of a team will have the same team description in lieu of an individual position description. Team descriptions will identify the knowledges and skills required to perform the duties and responsibilities assigned to the team.

In some instances, work teams may perform work that requires highly specialized qualifications such as formal training or apprenticeship periods. Such requirements will be clearly identified in the team description under Conditions of Employment.

Classification of Team Descriptions

Each team description will be evaluated using the Master Standard. The Master Standard combines the ranges of job skills and knowledges traditionally covered by grades 1 through 11 of the General Schedule (GS) and grades 1 through 11 of the Federal Ware System (FWS). The Master Standard describes five skill levels. Each skill/knowledge described in the team description will be evaluated against the Master Standard and will be assigned an appropriate skill level.

Appeal Procedures

Appeals regarding the level of difficulty assigned by the DDOU Office of Civilian Personnel will be forwarded to Headquarters DLA, Office of Civilian Personnel, Position Classification and Personnel Management Evaluation Division (DLA-KM) for resolution. Prior to filing an appeal with DLA-KM, in informal effort must be made to resolve the appeal at the local level. Appeals will be accepted only if they are based on a majority team decision.

Classification Review

To assure that team descriptions accurately describe the work actually performed, and to verify that descriptions have been properly assigned to the proper pay bands, the Office of Civilian Personnel will conduct an annual audit of 20% of the positions engaged in the project.

Reclassification Actions

Skills or job knowledge mixes can be changed by planned management action or technological changes. The assignment of a team to one of the five pay bands may change as functions are either added or deleted as a result of reorganization, new mission requirements, modernization, etc.

If reclassification results in assignment to a higher pay band, team

members will not receive the pay increase until they have been certified as acquiring all newly identified skills. If reclassification results in assignment of a lower pay band, pay retention will apply to those employees whose pay exceeds the newly assigned pay band.

C. Compensation

A new SBP Compensation System designed for the demonstration project will apply to all employees assigned to teams. The system has been designed to achieve the following objectives:

- Provide a positive incentive to acquire the additional job knowledges, skills and abilities necessary to perform all functions required of a work team;
- Replace current pay grades with fewer, broader pay bands; and
- Combine current hourly and salaried pay systems into a single salaried system.

Pay Bands

A pay structure will be established consisting of five pay bands. Pay bands under the new system will be broad in order to support the concept of broad classification levels. The five pay bands will cover all depot employees who are assigned to multi-skilled work teams, eliminating the distinction between an hourly pay system for trades, crafts, or laboring positions and a salary system for professional, administrative, technical, or clerical positions. Pay bands will be designated as CS–1 through CS–5. Additional pay bands may be added CS–5 at a later date on an as-needed basis, however, such a project modification would require OPM approval and publication of a project amendment in the **Federal Register**.

Assignment to Pay Bands

Assignment of each team to one of the five pay bands under SBP will be accomplished using the following procedure:

1. Assign skill level to each skill/knowledge described in the team description *e.g.*, level 1, 2, 3 etc.
2. Calculate the "average" skill level for each team description.
3. Using the conversion table (Table 7), convert the "average" skill level to the appropriate Pay Band.

TABLE 7.—PAY BAND CONVERSION TABLE

Point range	Pay band
1.0 to 1.49	CS–1
1.5 to 2.49	CS–2
2.5 to 3.49	CS–3
3.5 to 4.49	CS–4
4.5 +	CS–5

Levels Within Pay Bands

All pay bands will consist of four pay *levels*, corresponding to 4 levels of skill acquisition, and four "time gates" for pay progression. Level I will be for new employees who meet only the minimum qualifications for the team but are not certified in any of the team-specific skills. Level II will be for team members who have mastered 25% of the team's skills and passed a minimum 6-month time gate; Level III will be for team members who have mastered 60% of the team's skills and passed a minimum 18 month time gate; and Level IV will be for members who have attained all of the team's required skills and passed a minimum 36-month time gate. The range of pay (from Level I to Level μIV) will be approxmiately 40% for all pay bands except CS–1, which will have a range of about 100%. Levels II and III for all pay bands will be set as follows:

Level II = Level I + $\frac{6}{36}$ × (Level IV–Level I)
Level III = Level I + $\frac{18}{36}$ × (Level IV–Level I)

Pay Level I of pay band CS–1 will be set at the current GS–01 step 1 pay rate, representing the rate paid for the lowest entry-level work under either the GS or FWS pay systems. Level IV of Pay band I will be set at a rate corresponding to WG–01 step 5. Level I of the CS–2 pay band will be set at 4% above the maximum rate (Level IV) of the CS–1 band. Level IV will be set at a rate corresponding to WG–04 step 5. The CS–3 band will have a Level I rate set at 4% above the maximum rate of CS–2 and a Level IV set at a rate corresponding to GS–07 step 10. The CS–4 band will have a Level I rate set at 4% above the maximum rate of CS–3 and a Level IV set at a rate corresponding to GS–09 step 10. The CS–5 band will have a Level I rate set at 4% above the maximum rate of CS–4 and a Level IV set at a rate corresponding to GS–11 step 10.

Using current pay rates for GS and FWS employees, the application of the above procedures results in the SBP Compensation System Pay Schedule represented in table 8. Pay levels T1 and T2 are for trainee positions and are further explained under the Hiring section.

TABLE 8.—SBP COMPENSATION PAY SCHEDULE [1]

	T1 (35%)	T2 (15%)	Level I	Level II	Level III	Level IV	Team leader
CS–1			5.07	5.59	6.64	8.20	9.84
CS–2			8.53	8.84	9.46	10.39	12.47
CS–3			10.81	11.11	11.70	12.58	15.10
CS–4	8.50	11.12	13.08	13.47	14.24	15.39	18.47
CS–5	10.41	13.61	16.01	16.45	17.32	18.62	22.34

[1] Dollars per hour as of January, 1990.

Movement Within Pay Bands

Progression through each level of a particular pay band will be function of performance, time, and successful certification of job knowledge requirements (Table 9). Advancement to the next pay level will require successful certification of a specific percentage of the team job knowledge requirements and a minimum amount of time on the term. The amount of time at each successive pay level will be determined by minimum and maximum "time gates". Minimum time gates are viewed as necessary to assure a reasonable return to the activity for the investment in training. Maximum time gates are viewed as necessary to ensure satisfactory progress toward learning the required job knowledges.

Assuming the ability to learn all job knowledges, an employee will reach maximum pay after 36 months. The only increase in base pay beyond this point will be the full comparability increase for the General Schedule.

TABLE 9.—PROGRESSION REQUIREMENTS

Pay level	Time gate progression requirements		Team job knowledge requirement (percent)
	Minimum (months)	Maximum (months)	
I (Entry)	0	0	0
II	6	9	25
III	18	21	60
IV	36	39	100

Team Leader Pay Rates

Compensation for team leaders under SBP will be set at 20 percent above the Level IV of the pay band to which the team leader is assigned. This approach to compensating leaders will prevent pay inversion and ensure that team leaders are equitably compensated for the additional knowlede and responsibilities required for team leadership.

Non-team Member Compensation

Pay for employees not assigned to a multi-skilled work team will continue to be provided for in accordance with the provisions of their current applicable pay system.

Premium Pay Entitlements

The compensation entitlement for all premium pay will be provided to all project employees as applicable under the current General Schedule (GS) guidelines to individual team members. For example, under the project, current Federal Wage System employees who are assigned to teams with work assignments that expose them to unusually severe hazards or working conditions that currently qualify for "environmental differential" under 5 CFR 532.511 will be eligible to receive a 25% "hazard pay differential" for all hours in a pay status, as is currently the case for General Schedule employees under 5 CFR part 550, subpart I.

Fair Labor Standards Act

All the current provisions of the Fair Labor Standards Act (FLSA) will continue to be applied under the demonstration project.

D. Hiring

Proposed changes to the hiring process under the demonstration project address two important issues: (1) The hiring process in a participatory work environment should provide a mechanism for team members to contribute to the selection process, and (2) it should also provide more latitude to the team leader/manager in support of the concept of evolving team autonomy.

Hiring From Outside

The ability to make quality selections is critical to SBP/PWE, because employees must learn a range of skills while participating effectively on teams. Corporations, companies, and plants that have implemented SBP and related innovations have found that the quality of new hires is essential to long-term success. It is essential that new hires fully understand and accept SBP/PWE employment conditions and the expectations of both the employer and the team.

The ability to learn and perform a repertoire of skills while operating effectively in a participatory team environment is a necessary quality for SBP/PWE employees. Although this quality is not intended to be part of the basic examination process, it will be an additional factor to be considered in making final selections. The current examining process OPM employs will remain unchanged by DDOU, and no special examination for the project is envisioned.

OPM X-118 qualification requirements will continue to be used. The staffing plan for the project will identify an entry position for each team that can be directly correlated with an occupational series and grade under the current FWS or GS classification systems. For that occupational series and grade, the applicable X-118 or X-118C standard will be used to determine applicant qualifications. DDOU will work with OPM to develop innovative approaches to recruiting from outside the Federal service for the new SBP/PWE environment.

Because integrated recruitment, examination, and selection are seen as key to effective SBP/PWE implementation, delegated examining authority will be requested by the project test site. The request for delegated examining authority will be limited to the team entry level. Delegated examining authority for team entry levels would permit a unified approach to the process of examination and selection in this new environment. This would not only assist in ensuring applicant availability, but would also place responsibility for success of the entire demonstration project at the project activity.

Regardless of the examining authority, all veteran preference requirements will continue to apply in accordance with current statute and regulation. When applicants are referred to the manager, he/she, in conjunction with the team leader, will determine which of the referred applicants will be interviewed.

Having identified the interviewees, the manager and team leader will conduct interviews in the presence of at least two team members. After each interview, team members present will be given an opportunity to provide their comments for consideration by the team leader and manager. The interview process will include a tour of the worksite and an orientation concerning the concepts of SBP/PWE. Upon completion of all interviews, the team leader will make a selection subject to review and approval by the manager.

Hiring From Within

1. Selection of Team Members

(a) Promotion. Under the demonstration project, promotion will be defined as movement from one position or pay band to a position or pay band offering a greater basic salary potential.

The majority of team vacancies will be filled at the entry level and all movement from one team to another team with a higher pay band will be effected through merit promotion procedures. Promotion opportunity announcements will reflect that any such movement will imply a full acceptance of SBP/PWE.

Advancement through all skills on the new team will be a condition of employment. As with outside hiring, evidence of the ability to learn and perform a variety of skills while operating effectively in a PWE setting will be considered.

To provide career paths and upward mobility, trainee positions may be established for employees who do not meet the normal qualification requirements for teams at pay bands CS-4 and CS-5. The starting pay level for trainee positions will be 35 percent below the team entry level (Pay Level T1), and selectees must spend 24 months in training before progressing to the team entry level. At completion of 12 months training and a favorable team leader recommendation based on team input, the employee will receive a pay adjustment to 15 percent below the entry level (Pay Level T2). Upon successful completion of the training program, the employee will advance to Level I and can begin the formal process of certification in the team job knowledges. Saved pay will apply to trainee positions in the same manner that it currently applies to career intern and upward mobility positions.

Qualification requirements for both team entry levels and trainee positions will be keyed to the current X-118 OPM Handbook to the maximum extent possible. Modifications may be developed as necessary. Time-in-grade restrictions will not apply.

Employees will be able to apply for a position on a team with a higher pay band at any time as long as they meet minimum qualification requirements. Promotion from a lower pay band will normally be to Level I of the higher pay band.

Crediting plans and rating and ranking of candidates will be accomplished by appropriate team subject matter experts in accordance with the current Merit Promotion

Program. Selection procedures will then follow those established for outside recruitment.

(b) Reassignment. Under the demonstration project, reassignment will be defined as movement from a position or pay band to a position or pay band with the same basic salary potential.

Moving an employee from one team to another within the same pay band and with identical skills may occur at any time. This might result from an employee's request or at management's discretion because of work load changes or other related issues.

Moving an employee from one team to another with the same pay band but different skills may be effected without financial penalty to an employee in two situations:

(1) At the employee's request, when the employee has at least a Fully Successful performance rating, is at Pay Level IV, and has been certified in all team skills on the currently assigned team for at least 6 months. Team leader support will be required from both the losing and gaining team. A vacancy must exist or a member of the gaining team must request a similar transfer. Maximum time gate requirements of the new team will apply. The horizontal integration of skills between teams resulting from this kind of move may prove very beneficial to activity flexibility and employee job enrichment.

(2) Following a management directed move because of the need to reallocate team resources or to establish new teams. Maximum time gate requirements of the new team will apply.

In other instances, such as a voluntary request, salary on the new team with the same pay band but different skills will be set at whatever level is supported by formal skill certification for the new team. Non-competitive movement must be preceded by a determination that entry level qualification requirements are met in accordance with X-118 and X-118C.

(c) Changes to Lower Levels. Under the demonstration project, a change to lower level will be defined as movement from one position or pay band to a position or pay band offering a lesser basic salary potential.

Moving an employee from one team to another team with a lower pay band and different skills may be effected without financial penalty to an employee in one situation—following a management directed move because of the need to reallocate team resources or to establish new teams. In this situation, normal pay retention and revised RIF provisions will apply.

Pay setting for voluntary requests will be based on the formal certification process unless the employee has been certified in all team skills on the currently assigned team for 6 months and is already at Pay Level IV. In this case, movement may be effected to the lower pay banded team at Pay Level IV, but without pay retention.

2. Selection of Team Leaders

Team leaders must be completely knowledgeable regarding all of the team skills and work processes. Accordingly, those selected for team leader positions will be subject to the existing probationary period for new supervisors, and one condition for competing this probationary period will be the requirement to become certified in all skills on the team within 12 months. Team leaders who come from the existing supervisory work force and have already completed a one-year supervisory probationary period will not be subject to another probationary period. However, performance-based action will be warranted if satisfactory progress toward developing team leader skills is not achieved.

Qualification requirements for team leaders will be based on experience related to the major function(s) of the team and on demonstrated ability to lead and work with groups.

Selection for team leader vacancies will be made by the responsible manager with input from team members. As teams move toward greater autonomy and the team leader role changes, selection of the team leader may become a team responsibility subject to manager review.

The non-competitive movement of team leaders will be consistent with the same principles as movement of team members. Movement from one team to another team with the same pay band and identical skills may occur at any time. Movement to another team with the same pay band but with different skills may occur whenever the team leader has been certified in all skills on the currently assigned team for at least 6 months or following a management directed move. Movement to a lower pay band may occur voluntarily (without pay retention) following certification in all skills on the currently assigned team for at least 6 months. Qualification requirements must be met for non-competitive movement. If such a movement is management directed, normal pay retention and revised RIF provisions will apply.

3. Selection of Managers

The flattening of the organizational structure will virtually eliminate hierarchical levels between team leaders and organizational managers. This should lead to a larger competitive base from which to select future managers. Team leaders who have developed good leadership skills and have, through competitive or noncompetitive actions, served as a team leader on multiple teams should be better able to compete for managerial vacancies.

The qualification process for managers will remain the same. Selection procedures may require the use of assessment center technology. A long term objective of the project is to organize managers into business teams with qualification requirements reflecting the new concepts of operation and pay banding based on the new Compensation Schedule.

E. Performance Evaluation

Performance evaluation is an important feedback mechanism for letting employees know how well they are meeting organizational expectations. The appraisal system to be used during the demonstration project will be used to answer these kinds of questions:

- Does the individual's performance merit progression to the next pay level?
- Does the individual deserve recognition?
- Does the individual need additional training?
- Does the individual's work measure up to expectations?

The demonstration project's new performance appraisal system, as described in this section, will apply to all Depot employees except managers. All managers will be appraised and recognized under the current Performance Management and Recognition System (PMRS), as it is applied to GM employees throughout DLA.

Performance Standards

A set of performance standards will be developed for each team description and will be applied to each individual assigned to a team. The standards will specifically address two elements of performance: (1) Operational and (2) team participation. Performance standards will also be developed for non-team members, team leaders, and teams.

All employees will not fit into a team structure. Employees who are not team members will have performance standards structured around the critical elements of their positions. In addition, their performance standards will include critical elements related to the quality and timeliness of product(s) and/or service(s) they provide to teams. The

system will accommodate input from the team leaders of the teams supported by these individuals during the evaluation period.

1. Operational Performance Standards

The mission of the test site dictates that performance goals be clearly defined and communicated throughout the organization. Performance monitoring under the demonstration project will be continual and, in most operations, supported by objectively established measurement standards. The majority of these performance measurements will be the same as those currently used for operational performance, *e.g.*, on-time receipt processing, on-time shipping, material denial, and customer complaints.

In many mission support operations, performance measurements are not as clearly defined and are often dependent on the requirements of the "customers." In these areas, performance measurement will be tied to operation objectives developed to support the customer. In either situation, operational performance evaluation factors will be developed to describe what is expected. These factors should be attainable, skill-relevant, pay-level-relevant, specific, realistic, and observable.

2. Team Participation Performance Standards

Each individual employee's contribution to the performance of the team will be considered as critical. The team participation portion of the appraisal will consist of factors, such as:

- Maintenance of an orderly work environment,
- Constructive participation in meeting team requirements, and
- Individual efforts which improve group performance.

Team participation evaluation factors, to the extent possible, will be uniformly applied to all teams covered by the project. Using peer input and common evaluation factors when possible should help reduce current employee perceptions that performance appraisals are inconsistent and unfair.

3. Team Leader Performance Standards

The leader of each team, in addition to being evaluated on operational performance, will also be evaluated on individual evaluation factors assessing ability to effect the team process and build team competence and autonomy. The factors will include:

- Facilitating team member interaction,
- Leading team meetings,
- Working with groups to develop performance measures and goals,
- Providing continuous feedback on performance, and
- Facilitating interaction among teams.

4. Team Performance Standards

Performance evaluation factors for the teams will reflect common elements, such as meeting unit cost goals, safety and quality. Additional elements will be developed to assess the unique multi-skilled operations of the teams.

Mechanics of Evaluations

A menu of critical element and performance standards addressing all skill-relevant evaluation factors will be developed for each team. This menu will accommodate the multi-skilled environment and the fact that skills can be acquired by the individual in either a sequenced or an unsequenced manner.

The development of the critical elements will be a team leader responsibility with team member participation. Performance will be evaluated based on criticality of assigned tasks during the rating period. Each critical element related to assigned task(s) will be evaluated using only three levels of performance: Exceptional, Fully Successful and Unacceptable. Performance standards will be written only at the Fully Successful level and may be modified during the performance period to accommodate changes in work load, resource allocations, etc. To be rated on a critical element within a team performance plan, the employee will have to have been performing under that critical element for a minimum of 90 calendar days.

1. Individual Evaluation

The performance of employees will be assessed every 12 months. Although the final evaluation will be completed by the team leader, the process will involve active participation of the team members. Each team member will complete a confidential performance evaluation for all other team members. Peer input will be provided to the team leader for consideration during discussions with individual employees.

A summary rating will be determined for each employee based on the following definitions:

- *Exceptional:* no more than one critical element rated Fully Acceptable and no critical element rated Unacceptable
- *Fully Acceptable:* any other combination of ratings with no critical element rated Unacceptable
- *Unacceptable:* one or more critical element rated Unacceptable

Summary ratings of Fully Successful will be presumptive and automatic, requiring no further action by the team leader. Only summary ratings of Exceptional and Unacceptable will require documentation. It will be the responsibility of the team leader, based in part on input from the team members, to identify those individuals that have Exceptional or Unacceptable performance.

If an individual has an Exceptional rating, and the team is rated Satisfactory (see Team Evaluation, below), the individual will be eligible for recognition. Individuals receiving an Unacceptable rating will not be eligible to move to a higher pay level until their performance is at least Fully Successful.

Individuals identified as having unacceptable performance will be provided with an opportunity to demonstrate acceptable performance as required by 5 U.S.C. 4302(b)(6) and 5 CFR part 432. All current requirements in 5 CFR part 432 for reduction in grade or removal based on unacceptable performance will be followed.

2. Team Leader Evaluation

The team leader evaluation will be completed by the manager. The process will be identical to that of the individual evaluation. Input will include that of team members and other team leaders. Input from other leaders will be mandatory for a team where interaction is critical and input will be optional for all other team leaders.

3. Team Evaluation

Management will evaluate team performance at least every 12 months using a two-level system, Satisfactory or Unsatisfactory. This evaluation will be based on team performance standards which will cover both work performance and participation in team processes.

4. Manager Evaluation

The process for evaluating a manager's performance will be consistent with current PMRS concepts, with one additional enhancement. The process will provide for input from other managers as well as team leaders directly affected by the manager being evaluated.

Review and Management Process

All reviews of other than Fully Successful performance appraisals will be done by the next level of management. The Office of Civilian Personnel will be responsible for assisting and advising teams in the performance appraisal system, evaluation techniques, dispute resolution, etc.

F. Incentive/Recognition

In developing the incentive/recognition program, specific minimum objectives were established: (1) The program should be fair and based on achieving clear and measurable objectives, and (2) the individual, the team, and the activity must all be considered in developing a balanced and comprehensive incentive/recognition program. The following program, which will be applicable to all activity employees, should provide a mechanism to recognize individual performance without disrupting team efforts and provides the incentive for a total commitment to the activity. With the exception of the Employee Suggestion Program and certain honorary awards, the current performance award incentive/recognition system will no longer be applicable.

Individual Incentives

All employees rated Exceptional under the project will be eligible for an additional time off award if team performance has been evaluated as Satisfactory. During each annual performance appraisal cycle, employees who receive an Exceptional performance rating in teams rated Satisfactory will automatically receive 4 days of paid incentive leave. The additional time off must be scheduled during the 12-month period following the award. It will be the team leader's responsibility to assure that appraisal at the Exceptional level is fully justifiable and warranted.

Authorization for performance-based discretionary time off for an entire team will be provided for at the manager level. Extended lunch periods or partial days off may be forms of rewarding special achievements or outstanding production-related situations attained by a team.

Individual Incentives for Managers

The current PMRS incentive program for managers will be expanded to include all depot managers. The mechanisms for rating and distributing the PMRS performance award pool will remain the same.

Management of Incentives

The incentive/recognition program is designed not only to enhance cooperation between teams, but to encourage individual teams to take maximum advantage of the tools provided to contribute to the overall success of the activity. Team productivity will be tracked and measured to the maximum extent practical. Productivity measures are a valuable feedback mechanism to a team that is motivated to do their best to support the activity.

All aspects of the demonstration project's incentive/recognition program will be operative during the first year of the demonstration project. The effectiveness of the incentive/recognition program will be evaluated as the project evolves and may be adjusted accordingly.

Gainsharing System

The gainsharing program to be used in conjunction with the demonstration project will be based on the Agency-wide "Success Share" program negotiated between DLA and the AFGE Council of DLA Locals. The Success Share program will be conducted under the authority of title 5, U.S.C. and two Comptroller General decisions, *i.e.*, no waivers of law or regulation will be required. A full description of the program is contained in DLA Regulation number 7070.3, "Success Share Program," dated January 3, 1990.

The "Success Share" program is a productivity gainsharing system designed to reward all employees at an activity for reducing the cost of doing business while maintaining a high quality of service to customers.

The Success Share system is based on the concept of unit cost. Unit cost is part of a workload-driven resourcing system in which all of the costs incurred at a depot are associated with some output measure. If the depot successfully accomplishes its mission at a cost below the resources allocated for the fiscal year and within acceptable quality parameters, the difference will be shared equally (adjusted for the Quality Level Factor, described below) between DLA and depot employees.

The Quality Level Factor (QLF) is a depot-wide performance evaluation indicator used in Success Share calculations to ensure that quality is not sacrificed for increased production. The QLF is based on such indicators as on-time shipping, on-time receipt processing, material denial, and customer complaints. For a given level of cost savings, a QLF above a pre-established DLA goal will result an increased Success Share award pool for employees, and a QLF below a pre-established DLA goal will result in a decreased award pool for employees.

The Success Share award pool will be one-half of the total dollar productivity gain (as adjusted by the QLF). Individual awards will be based on an hourly award rate determined by dividing the Success Share award pool by the total number of productive hours worked by all eligible employees. (Productive hours are defined as all regular hours worked, excluding overtime. Productive hours include training time but do not include leave.) All employees will have the same hourly award rate; grade or rate of pay will not be a factor. Individual Success Share award amounts will be calculated by multiplying the hourly award rate by the number of productive hours worked by the employee.

Employees will have the option of electing to receive their Success Share awards in cash, leave, or a combination of the two. Leave earned under the Success Share program will be referred to as "incentive leave." The amount of Success Share incentive leave available to an employee will be computed by dividing the employee's award amount by his or her individual rate of pay. Success Share incentive leave will normally be used during the leave (calendar) year following the fiscal year in which it will have been earned.

G. Job Knowledge Certification

The job knowledge training and certification program will provide the mechanism for employees to learn additional skills. Documentation of this accomplishment will be placed in an employee's Official Personnel Folder (OPF). It will be a comprehensive program designed to qualify employees to perform every job function within their assigned team.

Complete training packages will be developed and continually maintained for each job knowledge/function required by a team. These packages will identify and explain all aspects of the specific function to be learned and provide the method to certify that an acceptable level of knowledge of the function has been achieved. The certification process will involve training and demonstrated proficiency.

The certification will be administered by either the team leader or a qualified instructor. Demonstrated proficiency will be witnessed by the team leader and by at least one team member who has previously been certified in the particular function being performed or by another subject matter expert.

Certification in current job skills using certification check lists began at DDOU in February, 1990. Certification for movement within pay bands will begin 90 days after project implementation when all training modules will be completed, except those for Stock Maintenance Division, Directorate of Distribution. A formal on-the-job training program for the Stock Maintenance Division will be used for

certification until training modules are completed.

When workload or demand require certification scheduling, it will be provided in accordance with seniority based on service computation date.

Failure to meet certification within maximum time requirements will necessitate appropriate action based on individual performance related criteria.

For all new employees and team leaders entering a team, a condition of employment will exist that requires he/she learn all the job knowledges and be certified within the time frames specified. It will be the responsibility of management to assure that training programs are developed for all required team skills/knowledges and that all team members are afforded equal opportunity to obtain such training in a timely manner.

Team leaders will be responsible to insure and document that all team members rotate in each of the certified job functions for a sufficient period of time to maintain proficiency every 12 months. Facilitators will assist team leaders in this process. Classifiers, during their scheduled audits, will also verify that required rotation is being accomplished through reviewing team leader documentation and interviewing team members. This requirement for job rotation will allow members to maintain proficiency in the job functions, and in most instances will preclude any additional training requirement.

IV. Personnel Subsystem Administration

A. Letters of Discipline

The present system for disciplinary actions is based on the Agency "Table of Penalties", which lists most offenses and provides for a range of penalties which depend on the nature of the offense and the number of times it has been committed. For minor offenses, such as AWOL, penalties are progressive if behavior is not corrected. These penalties range from a reprimand, through a series of suspensions, culminating in removal. These actions often detract from productivity and do not fit well in a participatory team environment.

Under the demonstration project, when it has been determined that an employee has committed an offense for which formal disciplinary action is appropriate, a letter of discipline may be issued under the terms of this SBP/PWE process in lieu of a letter of reprimand or a suspension from duty and pay of not more than 14 calendar days.

The use of letters of discipline under this process will be considered an adjunct to the regular, formal disciplinary procedures outlined in DLAR 1406.1. In those circumstances where it is determined that it is not appropriate to substitute a letter of discipline for a formal disciplinary action, a regular formal disciplinary action will be taken according to DLAR 1406.1. Substitution of a letter of discipline for formal discipline, such as a reprimand or suspension, will in all cases be at the discretion of the agency.

In situations where reprimands and suspensions are replaced by letters of discipline for repetitive offenses, the letters will specify the degree of seriousness and at what point another incident might result in proposed removal. Current procedures for emergency suspensions in the event of criminal activity will be retained.

Letters of discipline will cite the specific charge(s) and a reasonable account of the offense(s) including such facts as time, date, names, place, and circumstances. As appropriate, letters of discipline will include a statement of any past disciplinary actions taken which were considered as supporting the severity of the penalty the letter of discipline is being taken in lieu of. Employees will have the right to formally question a letter of discipline taken under terms of this process using the regular grievance process (either the negotiated grievance procedure or the agency procedure, whichever is applicable). Therefore, letters of discipline must inform employees that they have the right to seek formal reconsideration of the letter of discipline by citing the appropriate grievance procedure in the letter. On receipt of a letter of discipline, the employee will be asked to acknowledge receipt. This copy of the letter will become the Official Personnel Folder (OPF) copy.

Letters of discipline will be filed in the employee's OPF as a temporary (left side) document for a period not to exceed 2 years. At the expiration of the 2-year period or sooner if so determined by the issuing supervisor or based on the outcome of the employee's grievance, the letter of discipline and supporting documents will be purged from the OPF.

These modified disciplinary procedures are intended to be easily understood by the work force and easily applicable in a consistent manner.

B. Reduction in Force (RIF)

Competitive areas will be limited to functional areas (Distribution, Installation Services, etc.) grouping employees on the basis of team skills to determine competitive levels, and ranking on the basis of veterans preference, performance appraisal, tenure, and service computation date.

Competitive levels will be based on team skills rather than classification series and grades of positions. Positions on teams with substantially the same skills in the same pay bands will be in the same competitive level. However, when the required skills are not substantially the same between teams in the same pay band, these positions will be in different competitive levels.

Since grades will not be a factor in the RIF procedure, adverse impact on employees will be determined by where an employee is placed in the compensation schedule. RIF placement of employees, e.g., bumping and retreating from one team to a lower pay banded team, from team leader to team member, from manager to team leader or member are considered as downgrades of more than two grades for purposes of determining eligibility for discontinued service retirement. There will be no limit on bumping or retreating. As referred to in the Classification Section of this plan, pay retention will be applied as appropriate, but current provisions for grade retention are not meaningful and will not be applied. Additional retention credit for performance will follow the procedures outlined in 5 CFR 351.504, as modified by DLA for the level three-level rating system.

C. Appeals and Grievance Procedures

This project will not waive any existing appeal or grievance procedures. Negotiated grievance procedures will apply for bargaining unit employees and the existing administrative grievance procedures will apply for employees not covered by negotiated procedures. No provisions of this project waive a right or remedy available to an employee under Equal Employment Opportunity (EEO) laws. Classification appeals procedures will be modified to adapt them to the team environment (See appeal procedures under Classification Section).

V. Project Costs

The costs associated with the project will be borne by DLA and the participating activity. Major costs to date have been for project development, and future costs will be for training, implementation and evaluation. Increased costs will occur at the beginning of the project; cost neutrality is anticipated by the end of the third year and cost savings at the beginning of the fourth year.

The demonstration project will have increased costs in its development, formulation, and implementation. It is

important to the success of this project to have a clear, distinct separation of the routine activity costs from the additional costs resulting from the project. The design, implementation, and operation of a skill-based compensation system requires resourcing the same types of costs as other traditional pay systems. However, cost increases are sometimes incurred by activities using SBP plans in three main areas: Training, wages, and one-time overhead costs. Job rotation opportunities to develop employee skills will result in increased training costs.

Under SBP systems, basic labor costs are generally higher than under traditional compensation systems. The pay of employees increases as they learn new skills. Therefore, the wages of an employee with a short length of service may be higher than those of someone with comparable service at another activity using traditional pay systems. The majority of private SBP plans reported paying wages higher than the prevailing rate. Although the basic labor costs per hour are higher under SBP plans, the overall depot operating costs will be lower through decreased staffing requirements. Therefore, this project is projected to be cost neutral.

Increases in overhead costs will arise from SBP/PWE plan development, implementation, maintenance, administration, and evaluation. Some administrative overhead costs may be offset by decreases in turnover and absenteeism and, in some cases, reduced support personnel. Project development costs from 3rd Quarter FY 87 through 1st Quarter FY 90 are as follows:

Personnel Costs	$1,127,413
Non Personnel Costs	401,835
Training	136,954
Travel	46,835
Total	1,713,037

The anticipated operating budget for the remainder of FY 90 is $575,000.

VI. Project Administration

A. Training

This demonstration project will represent a significant change in the management practices in both the product and service arenas at the test activity. Many traditional programs and attitudes will require change. In preparation for the major environmental change proposed by the demonstration project, all depot employees were offered Pacific Institutes' 32-hour course entitled "Investment In Excellence". Fourteen hundred (1400) employees have been trained.

Also to facilitate the change to their new roles as team leaders, all depot supervisors have attended a one-day symposium conducted by Pacific Institute on "The Change Process." One hundred and forty five (145) supervisors received an additional 40-hour course offered by Zenger Miller entitled "Group Action". Approximately 3,200 hours of training has been given to supervisors and employees on the concepts of Total Quality Management.

To complete the transition to a PWE, a great deal of additional training will be necessary in all phases of the project to provide managers and employees with the necessary knowledge to successfully participate in the evolution from current structured roles to the proposed environment. Table 10 outlines the courses identified to effect this change.

TABLE 10. TRAINING MODEL

Course	Participants	Schedule	Source
Project concepts	All employees	I−1 month	Proj team.
Team leader dev	Supervisors	I−1 month	Contractor.
Group dynamics	All employees	I+3months	Contractor.
Problem solving	All employees	I+6months	In-house.
Communications	All employees	I+6months	In-house.
Goal setting	All		

I=Implementation date.

The courses identified in Table 10 are interactive and represent various aspects of a PWE. The following summarizes the course contents:

Project Concepts. Training for all employees will include the following: Description of the project plan, how personnel enter and exit the plan, pay banding and the pay adjustment process, team/individual performance evaluation, incentives, measurement and evaluation of the plan, and skills certification.

Team Leader Development. Training will include the project personnel management initiatives, human relations, leadership skills and appraising performance.

Group dynamics. Training will include working effectively, enhancing listening skills, and promoting effective interaction within groups.

Team Building. This will include training individuals to be energetic team players without sacrificing individual pride and determination. It also includes providing direction without being authoritarian.

Problem Solving. Training will include a look at various systematic problem solving approaches and their applications.

Communications. Training will include examination of the communication process, including barriers, feedback, and communication levels.

Goal Setting. Training will include establishing meaningful goals and evaluating progress towards accomplishment of those goals.

Instructor Training

Some of the courses will be contracted for, while others will be accomplished by certified instructors at the activity. The number of certified instructors at the activity will be expanded to meet these additional training requirements. This will be accomplished by giving instructor training to subject matter experts, thereby minimizing the cost of training. To accommodate the anticipated training workload, an additional 112 subject matter experts have been trained and certified as instructors.

Facilitator Training

To ensure the smooth transition from traditional roles to those of managers, team leaders and team members, some facilitators will be required. These facilitators will be trained in interpersonal skills to provide encouragement and coaching for the team and team leaders.

B. Project Evaluation Plan

A comprehensive and methodologically rigorous evaluation of this project will be conducted to assess

its success in meeting its stated objectives, to determine the effectiveness of individual interventions, to document any unanticipated consequences, and to determine the applicability of project changes to other Federal installations. The evaluation will be conducted by the Navy Personnel Research and Development Center with OPM oversight as provided for in 5 U.S.C. 4703(h).

In order to portray the complex and integrative nature of the interventions and their effects on the overall organization, a model is presented in Figure 1 which describes the relationships among the specific interventions and their expected effects. On the far left side of Figure 1 are the 11 interventions that have been proposed. The interventions have been categorized into two major groups—those dealing with organizational level changes and those that primarily involve changes at the individual level. Combined, these two types of interventions have an effect on organizational processes (*e.g.*, day-to-day operations). For example, process outcomes would include increased flexibility of the scheduling of members of teams and increased employee involvement in decision-making. These changes in organizational processes, in turn, would lead to changes in intended intermediate outcomes. Intermediate outcomes are those that result from the combined effects of various changes and improvements in processes. Intermediate outcomes could take the form of changes in employee behavior and/or attitudes (*e.g.*, increased job satisfaction, decreased absenteeism) and changes in performance indicators at suborganizational levels (*e.g.*, improved fill time for supply requisitions). These various effects combine to produce changes in overall organizational performance, such as increased efficiency, timeliness, and quality of service (*e.g.*, line items shipped on time, customer satisfaction). The model serves to depict the various levels at which the interventions could have an impact and, thus, identifies the levels at which the impact of the interventions should be evaluated. Further, it suggests a sequential relationship among the effects and helps identify at what point in time effects would be anticipated at the various levels (*e.g.*, if few improvements in processes and intermediate outcomes are documented, improvements in ultimate outcomes as the result of the project will not be expected). This model will serve to guide the collection and analysis of data at various levels of organizational impact for the evaluation of the demonstration project.

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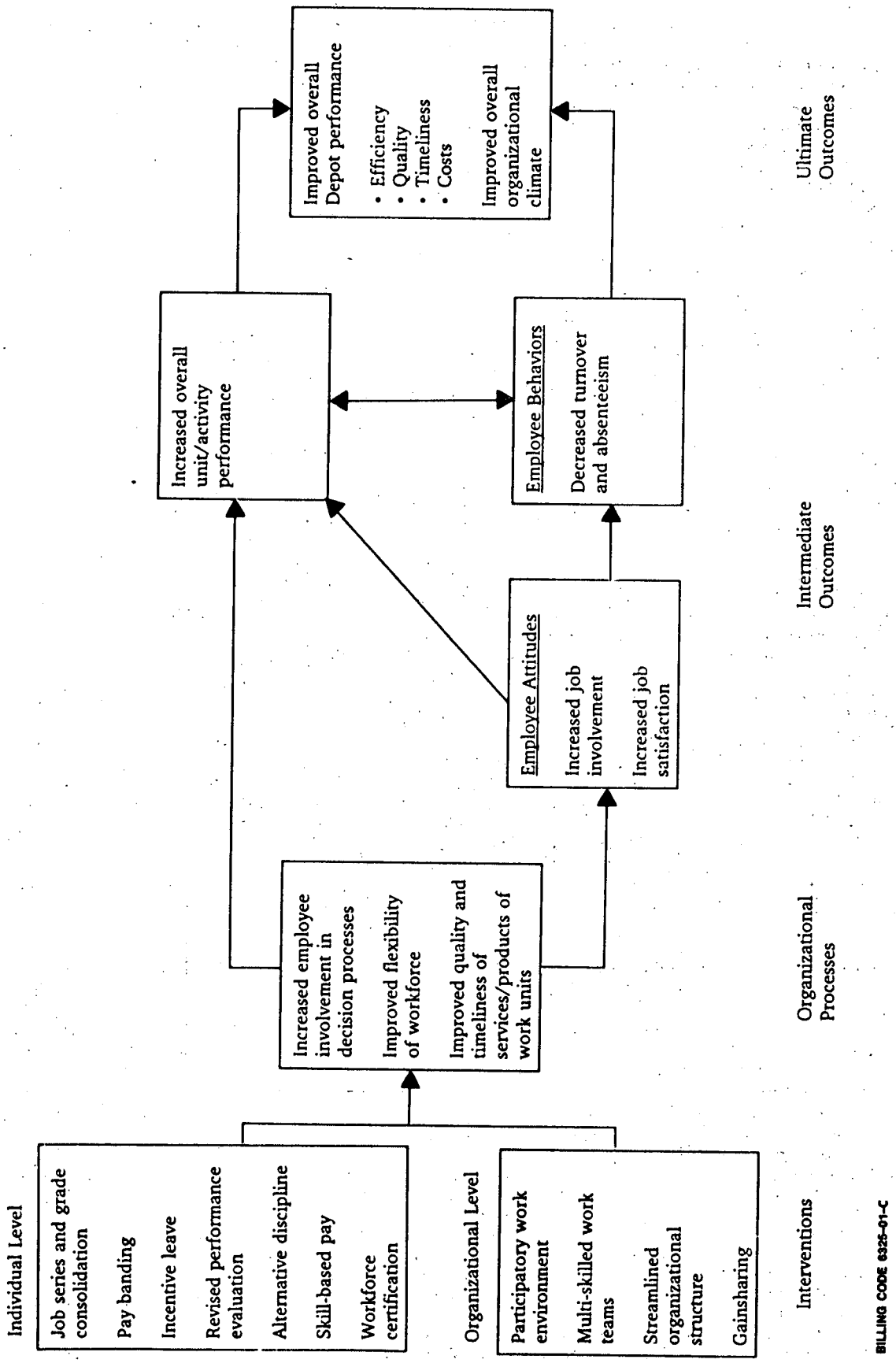

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In addition to examining the intended effects of the interventions, several other aspects of the demonstration project will be assessed. Whereas many effects of organizational change can be anticipated, change is also accompanied by unintended consequences, both positive and negative (*e.g.*, increased stress on individuals, decreased productivity resulting from training requirements, employees' inability to acquire skills, improved physical work environment through employee action, *etc.*). Information obtained in the assessment will serve to document these unplanned effects of the change. In some cases organizational indicators not expected to be directly impacted by the changes (*e.g.*, workload) will be identified at the beginning of the project and monitored to see whether they affect or are affected by the intervention. Other unintended consequences will be identified as the project progresses and subsequently monitored and documented.

Evaluation Phases

The project evaluation will be conducted in three phases, each with a slightly different focus. This corresponds to the measures dictated by the model that will be taken over the course of the demonstration project evaluation. Information relevant to the three phases of the evaluation—implementation evaluation, experimental evaluation, and summative evaluation—will be obtained. Reports on all evaluation phases will be submitted to DLA HQ, project officials at DDOU, and to OPM.

Implementation Evaluation. The implementation evaluation will be conducted to determine the extent to which the interventions were implemented in the organization as designed. This evaluation phase will focus on the time period between the development of the project plan and the time at which the changes are considered operational in the organization. Information collected in the implementation evaluation will serve to document how and to what extent the implementation has taken place and will provide the site with feedback as to how the implementation effort can be improved or enhanced. The implementation evaluation is a critical part of the evaluation plan in that it documents the intervention that was actually put in place when the proposed change was introduced into a dynamic organizational setting. From that it is possible to (1) identify what specifically led to the measured outcomes, and (2) prescribe optimal implementation approaches to potential future users.

The implementation evaluation also will include an assessment of the organization in which the demonstration project is conducted. The organizational assessment is designed to depict the environment in which the change is introduced to determine whether there are characteristics of that particular environment that predispose it to a more or less successful adoption of the change. Such aspects of the organization as organizational climate (*e.g.*, resistance to innovation, work-group cooperation), employee satisfaction, and employee commitment will be measured. A similar assessment will be conducted at the comparison site to determine whether differences in data collected at the two sites are, at least in part, due to differences between the sites rather than to the intervention.

Information for the implementation evaluation will be collected through examination of project-related documents (e.g., training materials, directives), ongoing contact with key players in the participating organizations, on-site interviews with project participants, observations, exit interviews with employees leaving the Depot, and other data collection methods. The implementation evaluation will address such issues as:

- The timing of various aspects of project implementation,
- The degree to which project elements are implemented as designed,
- What training/orientation is delivered to facilitate implementation,
- What new organizational structures and operating procedures/guidelines are developed to manage the project implementation,
- The degree to which individuals in the organization possess capabilities necessary to carry out the implementation, including (1) their personal understanding of the changes and their part in them, (2) the requisite skills and knowledges required for the change, and (3) their perceived ability to carry out the change,
- The degree to which individuals in the organization are committed to implementing and testing the project initiatives, their perceptions of the need for the change, their personal responsibility for the change, and their intention to carry out the change,
- The similarity of test and comparison sites,
- The extent to which "unrelated" events occurring at the same time may confound project results, and
- What unintended consequences of project initiatives may be observed.

The implementation evaluation will be presented in a report compiled shortly after the project has been deemed operational however, the monitoring and documentation of project implementation will continue throughout the life of the project in order to provide a qualitative context in which to understand and interpret other evaluation findings.

Experimental Evaluation. Although data collection for this phase must begin prior to project implementation to provide an adequate baseline for future comparisons, the primary focus of this evaluation phase will be on the period after the project is considered to be operational. Data collection initiated prior to implementation will continue on a periodic basis. Reports analyzing the effects of the various interventions will be issued by NPRDC on at least an annual basis.

Summative Evaluation. Upon conclusion of the demonstration period, an overall assessment of the combined effects of project interventions will be made. Impact of specific system changes will be discussed separately and in combination. The effect of each intervention and the project as a whole in meeting stated objectives will be assessed. Both positive and negative unanticipated outcomes will be discussed, as well as any unanticipated events that may have influenced project outcomes. The final report will also address the generalizability of project results to other Federal installations.

Evaluation Design

A "quasi-experimental" interrupted time series design with a nonequivalent comparison group will be used. *Baseline data* will be collected on a variety of the factors identified (*e.g.*, organizational performance measures, employee attitude measures) during the period of time prior to the implementation of the change. Measures of the same factors will be taken at routine intervals throughout the course of the experiment. Data will be collected from both the test site and one or more *comparison sites* not implementing the project interventions. Trends over this period of time at the test site in Ogden, Utah (DDOU) will be compared with trends at the comparison site. This design, combined with ongoing implementation monitoring, will provide a reasonable basis for making causal attributions regarding project results to the demonstration project interventions.

DLA's Defense Depot Memphis, Tennessee (DDMT) has been selected as the comparison site for this experiment. DDMT is one of five other DLA sites throughout the country currently performing functions similar to those at DDOU. Three major factors on which the two sites are considered similar are organizational structure, mission, and recent association with innovative personnel programs.

Of the five other DLA sites, DDMT is one of two "stand-alone" depots. Like DDOU, the stand-alone depots are not co-located with other installations, and all overhead services, such as personnel, are provided by the organization and follow the same configuration. Other depots in the system are co-located and overhead services are located outside their organization (*e.g.*, Defense Depot Mechanicsburg, Pennsylvania, which is on a Navy installation and for which the Navy provides all overhead services). DLA has eliminated Defense Depot Tracy, California, the remaining stand-alone depot, from consideration as a comparison site because of the major changes expected to result from DoD's recently announced consolidation prototype for San Francisco Bay Area depot management. Under the consolidation prototype, Tracy will become the administrative center for five Bay Area distribution facilities.

DDOU and DDMT perform the same essential functions of receiving, storing, and issuing DLA and other DoD component-managed materials, (including hazardous materials not handled by other depots), with some variation in commodities handled (*e.g.*, only DDOU assembles Deployable Medical Systems).

Like DDOU, DDMT is experimenting with innovative personnel systems. Both DDOU and DDMT have been actively involved in DoD's Model Installations Program (MIP). DDMT has also been involved in the DoD Experimental Personnel Office (EXPO) program and is currently developing self-managing work teams, an attempt to achieve many of the same objectives sought by this demonstration project, but within the bounds of current law and regulation.

An assessment of the test and comparison organizations to be performed by the external evaluator during the implementation phase of this evaluation will serve to identify and control for differences between the experimental and comparison sites.

Because all six such DLA organizations provide routine reports of organizational performance to DLA Headquarters, the other four depots will also serve as partial comparison sites. This will provide a broader base of comparison to help determine whether trends in measures of overall Depot functioning are common to the non-experimental sites in the Depot system or are unique to DDOU.

Project Objectives

Assessment of the results of this demonstration project will ultimately rest upon its success or failure in meeting its stated objectives. Four main objectives have been set by DLA for this project. This section discusses each objective, its relationship to the project interventions, and the types of data that will be collected to assess whether or not the objective has been met.

Objective 1: Increase employee involvement in day-to-day decision processes. The introduction of PWE concepts, along with corresponding changes in organizational structure, are intended to increase employee participation in work-related decisions. As part of the project, team leaders will be taught to encourage participation, and team members will be expected to participate in interviews and recommendations for selection, peer appraisals, work methods analysis, equipment recommendations and day-to-day problem resolution. Revised classification will support a more participative structure, as all members of a team will be classified at the same level. Changes to the performance evaluation and incentive awards systems will also encourage individual employees to see a greater link between their actions and group and organizational performance.

Increased employee involvement is expected in turn to improve the quality of worklife, as perceived by employees. This should include increases in employee satisfaction levels and greater commitment to the organization.

In order to track progress toward this objective, an attitude survey will be administered prior to project implementation and annually thereafter to depot employees. In addition to perceptions regarding employees' involvement, the instrument will cover a wide range of issues such as job satisfaction, pay equity, organizational climate, commitment, authority relationships, and attitudes regarding personnel procedures and policies.

Changes in the quality of worklife will also be measured using non-survey techniques including exit interviews, examination of personnel records, and analysis of computerized personnel data. Such measures will include absence and turnover rates, reasons for leaving, grievance activities, and adverse actions.

Objective 2: Improve the flexibility of the work force to respond to workload changes. Under a team-based organizational structure, employees will learn and perform all of the job skills related to a product or service. Having employees with multiple skills in an environment where broadened classification expands the range of possible assignments will mean that work assignments within teams will be able to be varied quickly to meet workload fluctations. The Workforce Certification Program will provide managers with an ongoing inventory of available skills that will aid in planning large scale workload changes.

Perceived changes in organizational flexibility will be measured through the annual attitude survey and through interviews with team leaders and managers. Actual production data will be used to assess depot reponses to workload changes occurring during the project.

Objective 3: Improve product/service quality and timeliness. The introduction of PWE practices is expected to contribute to increases in quality and timeliness. The test site already has a number of quality initiatives in place. Project orientation and training will continue to stress the importance of quality and of employee involvement in team efforts to improve quality. As project employees and teams become more self-managing, they are expected to take more pride in the quality and timeliness of their work. Quality considerations will also be included in team performance appraisals and computation of productivity gainsharing bonuses.

The test site currently has many goal-oriented activity performance and quality measures. Analysis of these measures will focus on DLA and DoD directed indicators. This will ensure that comparable measures will be available at both test and comparison sites. These measures cover such depot supply functions as effectiveness of processing receipts, accuracy of stock selection for shipment, transportation functions, inventory accuracy, and customer complaints. Safety measures will also be analyzed.

Objective 4: Reduce the overall cost of Depot operations. While the introduction of a skill-based compensation system will result in higher operating costs during the initial phases of the project, the institutionalization of the SBP/PWE concepts is expected to ultimately result in increased efficiency and productivity with a corresponding decrease in resource requirements. Leaner staffing, achieved through natural attrition over several years, will enable the test site to accomplish the same workload at reduced cost. Although increased costs will occur at the beginning of the project, cost neutrality is anticipated by the end of the third year, and cost savings are expected at the beginning of the fourth year.

Currently, DLA Depots employ a unit cost method to depict operational costs which allows tracking of costs at the

cost center level. Cost savings analysis will examine all aspects of operations including non-labor costs *e.g.*, the cost of supplies, equipment, service, and related support. Costs will not be analyzed independently, *i.e.*, changes in cost will be considered along with changes in efficiency (the number of actual hours required to accomplish the workload) and changes in wage rates.

Quality measures will also be included in the cost savings analysis. The inclusion of these measures will ensure that observed declines in cost which may be gained at the expense of quality and timeliness are not erroneously attributed to increase in productivity. Data will be collected from existing systems and will be analyzed quarterly, at a minimum.

Evaluation Approach

In order to evaluate the impact of the interventions as depicted in Figure 1, a multi-method measurement approach will be employed, using such techniques as interviews, questionnaries, and analysis of work and production measures. Table 11 presents each intervention along with its expected effects, the measures that will be used to assess those effects, and the data sources that will be used to provide the necessary information. During the baseline data collection period, the appropriateness of these measures as well as the need for additional measures will be determined. The collection, consolidation, and storage of data will involve the participation of DDOU, DDMT, DLA Headquarters, and NPRDC.

TABLE 11—PROJECT INTERVENTIONS, EXPECTED EFFECTS, AND MEASURES

Intervention	Expected effects	Measures	Data sources
Participatory Work Environment [Includes (1) replacement of supervisors with team leaders, (2) management and employee training in PWE concepts/skills, and (3) creation of participatory work teams].	Increased employee involvement	Opportunity for participation Impact of participation	Attitude survey. Interviews/observations. Attitude survey. Interviews/observations.
	Enhanced job-related attitudes	Job satisfaction Job enrichment Organizational commitment Turnover intent	Attitude survey. Attitude survey. Attitude survey. Attitude survey.
	Increased cooperation within and across work groups.	Group functioning Organizational integration	Attitude survey. Attitude survey.
	Improved timeliness and quality	Timeliness rates Quality measures Customer Satisfaction	Production data—Mechanization of Warehouse and Shipping Procedures (MOWASP). Quality assurance data (from Quality Directorate). Customer complaint system.
	Increased productivity	Earned hours/worked hours Unit cost	Production data—Labor and Performance Effective Report (LAPER). DLA Unit Cost Program.
Multi-skilled work teams	Increased workforce flexibility	Response to workload changes Perceived organizational flexibility	LAPER. Attitude survey. Interviews.
	No decline in safety	Safety measures	Personnel Office/Safety Office measures.
Workforce Certification Program (WCP) [Includes (1) training packages for each function, (2) demonstrated proficiency, and (3) periodic recertification].	Broadened skill levels	Skill base of workforce	WCP data
	Enhanced job-related attitudes	Job enrichment Satisfaction with job enhancement opportunities.	Attitude survey. Attitude survey.
Skill-Based Pay	Broadened skill levels	Skill base of workforce	WCP data.
	Enhanced job-related attitudes	Pay satisfaction Perceived pay equity	Attitude survey. Attitude survey.
Job series and grade consolidation	Simplified job classification process	Number of classification actions Number of promotions, reassignments, details. Number of personnel staff supporting classification function (by grade/pay band).	Personnel records. Personnel records. Personnel Office data. Interviews.
	Increased workforce flexibility	Response to workload changes Perceived organizational flexibility	LAPER. Attitude survey. Interviews.
Pay Banding	Increased pay satisfaction	Pay satisfaction Perceived pay equity	Attitude survey. Attitude survey.
Gainsharing	Increased pay satisfaction	Pay satisfaction Perceived pay equity	Attitude survey. Attitude survey.

TABLE 11—PROJECT INTERVENTIONS, EXPECTED EFFECTS, AND MEASURES—Continued

Intervention	Expected effects	Measures	Data sources
	Increased indentification with overall mission of organization.	Organizational commitment	Attitude survey.
	Increased link between organizational performance and reward.	Preceived link between organizational performance and reward. Actual link between organizational performance and reward.	Attitude survey. Success Share data. LAPER.
Incentive leave	Enhanced job-related attitudes	Job satisfaction Perceived fairness of reward system Perceived value of rewards	Attitude survey. Attitude survey. Attitude survey
Revised performance evaluation system.	Increased link between performance and recognition.	Perceived link between performance and recognition.	Attitude survey.
	Increased employee involvement	Opportunity for participation Impact of participation	Attitude survey. Interviews/observations. Attitude survey. Interviews/observations.
Alternative disciplinary procedures	Decreased productivity losses due to disciplinary actions.	Manhours lost to disciplinary actions Perceived productivity losses due to disciplinary actions.	Personnel Office Data. Attitude survey.
	Enhanced job-related attitudes	Perceptions of disciplinary system Perceived supervisor/employee relations.	Attitude survey. Attitude survey.
Streamlined organizational structure	Increased productivity	Earned hours/worked hours Unit cost	LAPER. DLA unit cost program.
	Increased workforce flexibility	Responses to workload changes Perceived organizational flexibility	LAPER. Attitude survey. Interviews.
	Improved timeliness	Timeliness rates	MOWASP.
	Reduction of staffing levels through attrition.	Staffing levels Overall payroll costs	Workforce data. Workforce data.
Combined Effects of Project Interventions.	Improved overall organizational performance.	Overall depot efficiency	DLA unit cost Program. LAPER.
		Quality measures	Quality Assurance data. Customer complaint system.
		Timeliness rates	MOWASP.
		Total Depot costs	DLA unit cost program.
	Improved overall organizational climate	Organizational Climate	Attitude survey.

C. Entry/Exit

Current Employees

A "full employee protection" approach will be used to enter the SBP plan without a loss of pay. Employees placed on teams will be converted from the current wage and general schedule grade and step into the CS compensation schedule at the same dollar salary they hold in the current compensation system. If current pay exceeds the top of the CS pay band, employees will be "grandfathered" into the new system. Other employees entering the new compensation schedule at their current salary will have their pay set at some point between two pay levels, or, in rare instances, it may fit exactly at one of the new pay levels. If pay falls between two pay levels, employees may advance at any time after entry on the team to the next higher pay level as soon as they are certified for all the skills required at that level. Although no minimum time gate will apply in this situation, the maximum time gate will apply. If pay is initially set at an exact pay level, the normal minimum and maximum time gates will apply for advancement to the next level, just as they apply for all subsequent advancement of employees between levels who achieve the next, or target level.

Employees who are placed on a team but choose not to participate in SBP will continue normal duties, will not be subject to rotation, and will not lose status or be subject to adverse actions because of this choice. An employee not participating in SBP will be transferred into the new compensation schedule at their exact current rate of pay. Future increases will be based on full comparability increases for the General Schedule. These employees will be required, however, to be certified in those job knowledges needed to accomplish their normal duties. A decision on whether to participate in SBP must be made within 90 days of the SBP implementation date.

As conditions of employment, employees participating in SBP will be required to be certified in all of the team skills within time limits and will be required to maintain proficiency through rotation.

Employees competing for positions at other activities during the course of the project may request a statement of comparison between the SBP pay levels to corresponding wage and general schedule positions and grades. These statements may then be submitted with applications. Eligibility for job positions outside DDOU will be determined by the outside activity from employee application information as is currently the case.

Grandfathering/Saved Pay

Employees assigned to teams whose current pay rate exceeds the maximum

of a pay band at the time the SBP demonstration project is implemented will be covered by modified saved pay provisions for the duration of the project. They will receive the full annual comparability increase granted to General Schedule employees to insure no loss of pay as a result of the demonstration project. If the project is terminated, current saved pay provisions will apply whenever appropriate. These "grandfathered" employees will have the option of participating in the SBP aspects of the demonstration project or continuing to specialize in their current jobs. As an incentive to participate in SBP, grandfathered employees will be offered a one-time bonus of 10% of their annual base salary, to be paid at the time they complete their 100% certification. This single cash payment is contingent on successful certification of all team job functions within a 36-month period. A decision on whether to participate in SBP must be made within 90 days of the SBP implementation date.

Employees who elect to participate in SBP but fail to complete certification requirements within the maximum time gate (39 months) will lose all bonus entitlements and the appropriate performance based corrective action will be initiated. These employees will be given an opportunity period as required by 5 U.S.C. 4302(b)(6). All other current requirements for reduction in grade or removal based on unacceptable performance will be followed.

Team Members Not Electing to Participate in SBP Compensation

Employees who are assigned to multi-skilled work teams, but who do not elect to participate in SBP, will have their pay set at their current level, with full comparability increases for the General Schedule. Step increases will no longer be applicable.

Current Supervisors

Although the team leader will initially be appointed from the current supervisory work force, he/she will also be required to be certified in the job knowledges of the team within a 12-month period. The demonstrations of proficiency will be performed and witnessed by a subject matter expert and at least one team member certified in a particular skill. The sequence of administering the training and proficiency demonstrations are the same as for team members.

Team leaders whose current pay rate exceeds the 20% above level IV of their pay band will be covered by modified saved pay provisions. They will receive the full annual comparability increase for the duration of the project to insure no loss of pay as a result of the demonstration project.

New Hires

Newly hired personnel from outside the Federal service will be brought in at team entry level. Hires from other Federal agencies may be brought in at any dollar salary or team pay level within the appropriate pay band dependent upon their qualifications and the activity's staffing needs. During the initial phases of the project, however, most newly hired individuals will be employed at the entry level of the team, or at the trainee level for pay bands CS-4 and CS-5. Mastery and certification of the job knowledge on that team will be a condition of employment.

Table 12 briefly summarizes the pay setting conditions under the demonstration project.

TABLE 12. PAY SETTING SUMMARY

Team Leaders	20% above Level IV of assigned pay band.
Trainees	35% & 15% below Level 1 of assigned pay band.
New Hires (from outside Federal Service).	Level 1 of pay band.
New Hires (current Federal employees)	Pay rate individually based on existing dollar salary, highest previous rate, or team pay level dependent upon their qualifications and activity staffing needs.

Current Employees—Dependent upon current pay:
1—Exceed level IV—grandfathered.
2—May match pay Level I, II, III, or IV.
3—Between levels until certified to next higher pay level.

Termination of the Project

All positions will be reclassified in accordance with nondemonstration criteria to determine the traditional series, pay plan and grade level. Employee placement rights will then be considered as outlined below:

1. An employee's new grade level will not be lower than his/her grade at project entry.

2. If an employee is converted to a grade whose maximum rate falls below his or her current salary, the employee will retain his/her current pay under 5 U.S.C. 5363 and 5 CFR part 536, but receive the lower grade designation.

3. If an employee's salary falls between the two steps, salary will be set at the higher rate, except for employees placed in a PMRS position (who will continue to receive their current rate of pay). The placement authority will be 5 CFR 335.102.

4. Realignment placement, if necessary, will be based on RIF procedures.

Exit from the Project

An OPM-approved information sheet describing the demonstration project, the positions/series included in the team(s) to which the employee was assigned, and the formula for converting SBP pay bands/salaries into GS or FWS grades will be inserted on the right side of the Official Personnel Folder of each employee who exits from the SBP plan for any reason. Grade/pay determinations for former SBP employees will be the responsibility of their subsequent employers.

VII. Authority Requirements

Authorities for a number of plan elements are not included in present Civil Services laws and regulations. They are needed to implement the SBP/PWE plan, and include the following provisions:

1. The establishment of a CS (compensation schedule) wage system with multiple pay bands to compensate different levels of multi-skilled work teams, each with a broad range of work skills.

2. A classification system based on skill levels within teams which encompasses a broad range of skills and which are described by a team position description.

3. A formal skill acquisition certification program as a basis for promotions within pay bands.

4. A performance appraisal system that encompasses three summary rating levels, and that incorporates a peer review input process.

5. The use of excused absence as an individual incentive award for Exceptional performance not to exceed 32 hours per year per individual. (This is currently authorized for DLA under Pub. L. 100-463 § 8067.)

6. Expansion of the Performance Management and Recognition System to include all managers above team leader level.

7. A modification of competitive areas in reduction-in-force situations to coincide with functional areas and acquired skills.

VIII. Waivers of Law and Regulation

Provisions of civil service laws or regulations that must be waived to implement this demonstration project are included as Table 13. The project is in accordance with 5 U.S.C. 4703(c) and is consistent with all merit system principles. All waivers are made *only* to the extent that project provisions as outlined in this plan conflict with existing laws or regulations.

TABLE 13. PROVISIONS OF LAWS OR REGULATIONS THAT REQUIRE WAIVERS

Title 5, United States Code

Section 5101 (1)(B) and (2)
Classification (grouping of positions by classes and grade)

Section 5102
Classification, Definitions—e.g., classification, grade, etc.

Section 5104
Basis for grading positions [1]

Section 5105(c)
Standards for classification of positions [1]

Section 5106 (a) and (b)
Basis for classifying positions [1]

Section 5107
Classification of positions [1]

Section 5110
Review of classification of positions [1]

Section 5111
Revocation and restoration of authority to classify positions [1]

Section 5331 through 5336
General Schedule pay rates and step increases [1]

Section 5342(a)(2)
Definition of "prevailing rate employee" [1]

Section 5343
Prevailing rate determinations; wage schedules; night differentials [1]

Section 5346
Job grading system [1]

Section 5361
Grade and pay retention, Definitions [1]

Section 5362
Grade retention following a change of positions or reclassification [1]

Section 5402(a)
Performance management and recognition system, Coverage

Section 5544
Wage-board overtime and Sunday rates; computation

Section 7503
Suspension for 14 days or less; cause and procedure

Title 5, Code of Federal Regulation

Section 300.601
Time in grade restrictions, applicability [1]

Section 315.902
Probation on initial appointment to a supervisory position, Definition of "supervisory position," as applied to team leader positions

Section 351.402(b)
Reduction in force, Competitive area

Section 351.403(a)
Reduction in force, Competitive Level

Section 351.504
Retention standing, Credit for performance

Section 351.701
Retention standing, Bump and retreat rights

Section 430.204(h)
Performance appraisal systems for General Schedule and prevailing rate employees [1]

Part 511, Subpart B
Coverage of the general schedule [1]

Part 511, Subpart F
Classification Appeals [1]

Part 511, Subpart G
Effective dates of position classification actions or decisions [1]

Part 531
Pay under the General Schedule [1]

Part 532
Prevailing rate system [1]

Part 536, except section 536.104
Grade retention [1]

Section 540.102
Performance Management and Recognition System, Definitions

Section 752.203
Suspension for 14 days or less, Procedures

[1] Only as applied to employees assigned to teams.

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Wednesday
June 27, 1990

Part VI

Federal Election Commission

11 CFR Parts 100, 104, 114, and 116
Debts Owed by Candidates and Political Committees; Final Rule

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 104, 114, and 116

[Notice 1990—10]

Debts Owed by Candidates and Political Committees

AGENCY: Federal Election Commission.

ACTION: Final rule; Transmittal of Regulations to Congress.

SUMMARY: The Commission has deleted its regulations at 11 CFR 114.10 and has prepared new 11 CFR part 116 concerning the extension of credit and settlement of debts owed by candidates and political committees. These regulations implement sections 433, 434, 439a, 441a, 441b and 451 of the Federal Election Campaign Act of 1971, as amended ("the Act" or "FECA"), 2 U.S.C. 431 *et seq.* In addition, the Commission has made several corresponding amendments to 11 CFR 100.7(a), 104.3(d) and 104.11(b) to bring those provisions into conformity with new 11 CFR part 116. Finally, the Commission is preparing a new form to facilitate the submission of debt settlements, which will be transmitted to Congress at a later date. Further information on these revisions is provided in the supplementary information which follows.

EFFECTIVE DATE: Further action, including the announcement of an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d). A document announcing the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 376-5690 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing today the final text of new regulations at 11 CFR part 116, which concern debts owed by candidates and political committees. The new rules replace current § 114.10, which is being removed from 11 CFR. In addition, the Commission is publishing conforming amendments to §§ 100.7, 104.3 and 104.11 to reflect the new provisions in part 116 of the regulations.

On December 6, 1988 the Commission issued a Notice of Proposed Rulemaking (NPRM) is which is sought comments on proposed revisions to these regulations 53 FR 59193. Seven written comments were received in response to the Notice. A public hearing was held on February 15 and 16, 1989 at which four witnesses presented testimony on the issues raised in the rulemaking.

Section 438(d) of title 2, United States Code requires that any rules or regulations prescribed by the Commission to carry out the provisions of title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days before they are finally promulgated. These regulations were transmitted to Congress on June 22, 1990.

Explanation and Justification

The Commission has extensively revised and reorganized its regulations regarding debts owed by candidates and political committees to ensure that the creation and settlement of such debts do not result in excessive or prohibited contributions to the debtor committees, and to promote the timely public disclosure of such transactions. During the course of this rulemaking, the Commission has re-examined several fundamental issues regarding debts owed by political committees, such as which types of committees should be permitted to seek debt settlement, whether debt settlements should be reviewed as agreements are reached or only after all creditors have ratified settlements, the scope of the Commission's review of debt settlements, and the relationship between the Commission's procedures and the procedures established by Congress in the Federal Bankruptcy Code.

The principal areas in which new 11 CFR part 116 differs from the previous language of 11 CFR 114.10 are as follows:

(1) Under the new rules, ongoing committees will no longer be permitted to settle debts (*see* 11 CFR 116.2).

(2) New procedures are included regarding situations in which either the political committee's creditors have gone out of business (*see* 11 CFR 116.9) or the political committee is essentially defunct (*see* 11 CFR 116.8).

(3) Special provisions have been added regarding authorized committees (including authorized committees of publicly-funded Presidential candidates) that wish to settle debts, terminate, or assign debts to other committees authorized by the same candidate (*see* 11 CFR 116.2(c)).

(4) New provisions have been added which address debts owed to unincorporated commercial vendors (*see* 11 CFR 116.3 and 116.4), committee employees (*see* 11 CFR 116.6), or other individuals who have advanced funds to or on behalf of a political committee (*see* 11 CFR 116.5).

(5) A more complete explanation of the procedures for submitting debt settlements for Commission review and a more detailed list of the information that must be provided have been added. (*see* 11 CFR 116.7).

(6) The treatment and reporting of disputed debts is clarified (*see* 11 CFR 116.10).

After considering the public comments and testimony regarding the Commission's role in bankruptcy proceedings under chapters 7 and 11 of the Federal Bankruptcy Code (11 U.S.C. Ch. 7 and 11), the Commission has decided to add a provision regarding the submission of debt settlement plans by terminating committees that have obtained releases from debts subject to chapter 7 bankruptcies. However, the new rules do not specifically address chapter 11 proceedings. Nevertheless, as explained more fully below, the promulgation of the new debt settlement rules may affect such proceedings.

The Commission has also decided to continue the current approach of permitting committees to file debt settlement requests as they reach agreements with creditors. Thus, the Commission is not adopting the previous proposals that would have required committees to present all their debt settlements at one time in a single unified plan for Commission review.

The Commission also notes that federal tax questions may arise concerning the proper treatment of bad debts owed to taxpayers by political parties or political committees. The reader should consult section 271 of the Internal Revenue Code regarding such matters. 26 U.S.C. 271.

Section 116.1 Definitions

New § 116.1 sets out definitions for the terms "terminating committee," "ongoing committee," "commercial vendor," "disputed debt," "extension of credit," and "creditor."

The previously proposed definition of "terminating committee" in paragraph (a) has been reworked to exclude committees that are continuing to make or accept contributions or expenditures for purposes other than winding down and paying outstanding bills. This is consistent with § 116.7(e)(6), which requires committees to demonstrate that they qualify as terminating committees. They should do so when they file their first debt settlement plan. The classification of a political committee as a terminating committee is of significance because only terminating committees are permitted to settle debts. While the new rules do not require terminating committees to terminate

within any set amount of time after they have settled all their outstanding debts, the Commission anticipates that most committees will file a termination report shortly after the Commission has concluded its debt settlement reviews. Failure to do so may raise questions about the committee's *bona fide* intent to terminate.

A definition of "commercial vendor" has been included in § 116.1(c) to clarify that debts owed to commercial vendors may be settled under these rules only if the vendor's usual and normal business involves providing goods or services of the type provided to the candidate or political committee. The Commission has modified the definition that appeared in the NPRM by deleting the language indicating that the provision of such goods or services must be "for profit." Transactions involving nonprofit entities and transactions between political committees will be addressed on a case-by-case basis. *See, e.g.* Advisory Opinion ("AO") 1989-4.

The Commission has also added a definition of "extension of credit." *See* 11 CFR 116.1(e). This term includes unintended credit which results when payment is due upon delivery but the political committee simply does not pay, as well as situations where the committee's creditor either decides in advance to provide goods or services on credit, or decides on or after the due date to allow more time for payment.

Finally, a new definition of "creditor" has been added to ensure that the term is correctly read to include both commercial vendors and other entities or persons, including individuals, to whom a debt is owed. *See* 11 CFR 116.1(f).

Section 116.2 Debts Owed by Terminating Committees, Ongoing Committees and Authorized Committees

The previous debt settlement regulations at 11 CFR 114.10 did not expressly limit debt settlements to political committees that are in the process of winding down their activities and preparing to terminate, although the vast majority of those seeking debt settlement are in that posture. Thus, questions arose as to the appropriateness of permitting ongoing committees, including party committees, separate segregated funds and nonconnected committees, to settle their debts for less than the full amount owed, particularly since these committees may have the ability and intention to continue soliciting funds for political purposes. Consequently, the NPRM sought comments on proposed regulatory language limiting debt settlements to political committees in the process of termination, and prohibiting ongoing committees from settling their previous debts.

The Commission heard testimony from one commenter who favored continuing to allow ongoing committees to seek debt settlements. The commenter stated that fairness to creditors would be promoted if the creditors could accept a generous settlement immediately, rather than being forced to wait substantially longer with little assurance that complete payment would be forthcoming. The commenter also pointed out that ongoing committees may have little choice other than to continue to support candidates and carry on normal operations while they are negotiating timetables for payment of previous debts.

The Commission has now decided to adopt the proposed language prohibiting ongoing committees from settling debts for less than the full amount owed. As the comment indicates, these committees have the intention to continue to solicit funds and to engage in election-related activities. Consequently, the settlement of an ongoing committee's debts cannot be considered to be commercially reasonable given that the committee is continuing to receive funds that could be used to pay its past debts. Moreover, by freeing additional funds for future electoral activity, such a practice could result in indirect corporate subsidization of a political committee's speech, and amplification of such speech beyond the committee's ordinary capacity. *Cf. FEC* v. *Massachusetts Citizens for Life*, 479 U.S. 238, 257-58 (1986) (individual contributions to political committees "reflect popular support for the political positions of the committee," while "corporate spending on political activity raises the prospect that resources amassed in the economic marketplace may be used to provide unfair advantage in the political marketplace"). Permitting settlement of an ongoing committee's debts is also inconsistent with section 433(d)(2) of the Act. That section contemplates the orderly application of a political committee's assets to reduce its outstanding debts only in the situation where the committee is insolvent and preparing to terminate.

Please note that under the new rules, "ongoing committee" includes party committees, separate segregated funds and nonconnected committees while such committees continue to engage in political activities. However, if a party committee, separate segregated fund or nonconnected committee decides to end its election-related activities, it may settle debts once it has qualified as a terminating committee.

Although the Commission has concluded that it is inappropriate to permit ongoing committees to settle debts, the Commission is adopting provisions that give ongoing committees the necessary flexibility to resolve certain concerns. Thus, ongoing committees may continue to resolve *bona fide* disputes with creditors regarding debts under new § 116.10. Ongoing committees, as well as terminating committees, will also be able to resolve difficulties created when their creditors have gone out of business. *See* 11 CFR 116.9. The Commission has also encountered the opposite situation, where the creditor is unable to locate the committee, or the committee is essentially defunct. Under certain limited conditions, the creditor may seek Commission approval of a complete forgiveness of the remaining debt. *See* 11 CFR 116.8.

The NPRM observed that there have been debt settlement requests in which different creditors were offered and accepted very different terms and payments from the same political committee. Thus, the NPRM sought suggestions as to whether the Commission should encourage political committees to pay each creditor approximately the same percentage for each outstanding debt. It also presented the possibility of establishing mandatory or suggested priorities for the settlement of debts owed to different categories of creditors and possibly requiring committees to adhere to the priorities set out in Federal Bankruptcy Code. *See* 11 U.S.C. 507. The Commission noted that section 433(d)(2) of the FECA refers to the Commission's authority to establish procedures to determine the insolvency of political committees, to liquidate the assets of insolvent committees for the reduction of outstanding debts, and to terminate insolvent committees after liquidation.

The commenters and witnesses at the hearing strongly opposed the creation of such priorities and pointed out several difficulties that the Commission could expect to encounter if it sought to oversee the liquidation of insolvent committees. It was also suggested that the Commission lacks the practical experience needed to resolve issues traditionally handled by the bankruptcy courts.

The Commission has now decided not to establish mandatory or suggested priorities for payment of creditors and not to implement new insolvency rules or procedures. Instead, the Commission will use its limited resources to ensure

that debt settlements presented to the Commission do not conceal transactions involving the making and acceptance of prohibited or excessive contributions.

The NPRM also sought comments on the related question of the Commission's role when an insolvent political committee files a petition under chapter 7 or chapter 11 of the Federal Bankruptcy Code. *See* 11 U.S.C. 301. In the past, the Commission has concluded that where candidates first sought release from dischargeable debts under chapter 7, the debts were settled for purposes of Commission review. *E.g.* Debt Settlement Request 87-11. The Commission received comments and testimony to the effect that the Commission should petition Congress to amend the Bankruptcy Code to permit the Commission to be notified, and if appropriate, to become a party in interest in bankruptcy cases involving political committees so that it could ensure compliance with the FECA. The comments preferred to let bankruptcy courts handle the liquidation or reorganization of a political committee's assets to the alternative of Commission supervision of insolvency proceedings for indebted committees. After further consideration, the Commission has decided that it should add language to the new rules to clarify how a release from dischargeable debts under chapter 7 affects the subsequent filing of a debt settlement plan by a terminating committee. *See* discussion below of new 11 CFR 116.7(g).

The reorganization of a political committee under chapter 11 presents many of the same concerns as are raised by the settlement of an ongoing committee's debts. As one federal bankruptcy court has acknowledged, such chapter 11 reorganizations implicate important policy considerations, such as the potential for the debtor committees to "deceiv[e] new donors by failing to inform them of the pending petition" for reorganization, as well as the "unfair advantage of chapter 11 political committees allowed to compromise debts while others may pay in full, and the potential for indirect corporate subsidization of a political committee's speech." *In Re: Fund for a Conservative Majority*, 100 Bankr. 307, 309 (Bankr. E.D. Va. 1989). The court concluded that some of the Commission's concerns in this area could be addressed by providing the Commission with an opportunity to review the reorganization plan submitted by the debtor committee. Unfortunately, the types of information needed to determine whether FECA violations have occurred may not be available in a committee's reorganization plan. While the new part 116 regulations prohibit ongoing committees from settling debts absent special circumstances, the new rules do not specifically address chapter 11 reorganizations involving political committees. Nevertheless, the Commission may seek to participate in bankruptcy cases presenting FECA questions and will continue to examine chapter 11 reorganizations of ongoing committees for evidence of FECA violations.

The NPRM also contained draft language that would have required terminating committees to submit all debt settlements as part of a single unified debt settlement package. This was intended to facilitate a more orderly review by the Commission of debt settlements and to enable the Commission to ascertain how the terminating committee plans to dispose of its remaining debts. This is a concern in situations where the committee had substantially more debts and obligations than cash on hand, and only limited fundraising prospects.

One commenter expressed the concern that the proposal for submission of all debt settlements in a single document would substantially delay creditors who reach settlements quickly from receiving any payments for lengthy periods of time while the political committee is negotiating agreements with all its other creditors.

In light of this concern, the Commission has revised §§ 116.2(a) and 116.7 so that the submission of all debt settlements in a single unified plan is not required. Thus, terminating committees may submit debt settlement plans in which agreements have been reached with some creditors but not others. However, the debtor committees will be required to include in their submissions summaries of their overall financial situation, including their plans for settling or resolving all remaining debts. This information is needed to enable the Commission to evaluate the commercial reasonableness of the debt settlements presented. In many cases, this approach will ensure that the details of a committee's earlier debt settlements will be placed on the public record more quickly than if the settlements were delayed until every creditor has signed an agreement to settle. Further information on submitting debt settlement plans and the scope of Commission review are explained below in 11 CFR 116.7.

New § 116.2(c)(1) prohibits authorized committees from settling debts if the candidate has another authorized committee with permissible funds available to pay part or all of the amount owed. This language also prohibits authorized committees from terminating if they have funds or assets to pay the outstanding debts of another authorized committee that cannot meet its own obligations.

The Commission received no public comments on proposed language in another section that expressly stated that the availability of funds to transfer from one authorized committee to another is a factor the Commission would consider in reviewing debt settlements. Such language has now been deleted since new § 116.2(c)(1) addresses this situation. Another comment expressed concern that new part 116 could well permit candidates to eliminate their previous campaign debts and then form new committees that would receive substantial extensions of credit from the same incorporated vendors, thereby allowing these candidates to put impermissible corporate contributions behind them. The language in new § 116.2(c) should alleviate such concerns. Moreover, the debt settlement review procedures set out in new § 116.7 will enable the Commission to question whether vendors have engaged in this type of activity with selected candidates, and to initiate enforcement actions in appropriate cases.

The new language in § 116.2(c)(1) regarding authorized committees parallels the provisions prohibiting ongoing committees from settling debts. The Commission notes that many candidates form a new principal campaign committee for each election cycle rather than simply rolling over their previous committee. Thus, a series of principal campaign committees is in many respects equivalent to an ongoing committee. The Commission has determined that the reasons for not permitting ongoing committees to settle debts should also prevent principal campaign committees from settling debts in situations where the candidate has another campaign committee capable of paying the amount owed.

For the same reasons, paragraph (c)(2) has been added to prohibit transfers of funds between a candidate's authorized committees for different elections if the transferor committee has net debts outstanding.

New paragraph (c)(3) has been added to assist authorized committees that would like to terminate but are unable to do so because they have outstanding debts which they are unable to pay. It permits indebted authorized committees to assign their debts to other authorized

committees of the same candidate and then terminate. Such assignments may not be made until after the election has been held, to prevent the formation of a new committee solely for the purpose of avoiding payment of debts. However, if either committee is an authorized committee of a Presidential candidate receiving public funding, the assignment may not take place until after the audit, repayment and enforcement processes have ended. The original committee must notify the creditors of the debt assignment. The authorized committee receiving the assigned debts must accept the obligation to pay the amount owed and must assume the reporting responsibilities for the assigned debts. This committee should report financial activity related to such debts and contributions received for their payment on a separate FEC Schedule A and Schedule D, but should include these figures in the totals reported on the committee's summary page. The Commission notes that contributions designated to pay the previous debts would be subject to the contribution limits for the previous election, rather than the upcoming election, under the net debts outstanding rules set forth in 11 CFR 110.1(b)(3). Thus, a separate schedule will assist the committee and the Commission in tracking these separate limits.

The concept of assigning debts is based in part on proposed activity approved by the Commission in AOs 1980–43 and 1977–52. One witness indicated that this approach would serve a useful disclosure function. Another commenter expressed the concern that the ability of the creditors of the committee accepting the assigned debts to obtain payment could be jeopardized by the committee's increased indebtedness. In practice, the Commission has not encountered such difficulties in the time since this approach was originally approved in AOs 1977–52 and 1980–43.

Another issue on which the NPRM sought comments was whether publicly-funded committees of Presidential candidates should be permitted to settle debts, and if so, whether higher standards should be used to evaluate their debt settlements. The NPRM also questioned whether such settlements should be submitted for Commission review as soon as practical, or whether the campaign committees should be permitted to wait until the Commission's audit process has been completed.

The Commission heard testimony from one commenter who proposed an alternative approach under which the contribution limits would be removed for Presidential candidates who are defeated and do not run again for President in the succeeding election. This would enable such indebted Presidential committees to seek additional contributions from those who have already given the maximum amount permitted under the Act. However, another commenter opposed this suggestion and argued that it would encourage more liberal campaign spending rather than responsibility and accountability. The Commission is not adopting the proposal regarding waiving the contribution limitations because this would be contrary to the plain wording of the statute as well as some of the basic principles underlying the FECA and the public financing statutes.

The Commission has now concluded that debts owed by publicly-funded Presidential committees should not be treated differently than debts owed by authorized committees of nonpresidential candidates. Thus, new § 116.2(c) of the Commission's regulations allows publicly-funded Presidential committees to settle debts if no other committee authorized by the same candidate has permissible funds available to pay the amounts outstanding. The indebted Presidential campaign committee is subject to the same requirements and procedures as other political committees eligible to settle debts. Furthermore, the original amounts of their debts will continue to be counted against their spending limits under 11 CFR 9035.1(a)(2). Under current 11 CFR 9038.2(b)(1)(v), the settlement of debts also reduces the indebted Presidential campaign committee's remaining entitlement to matching funds on its statement of net outstanding campaign obligations, which could affect the committee's repayment obligations. The new provisions in § 116.2(c) will not change this.

The Commission notes that questions were raised in Advisory Opinion 1988–5 as to whether a current publicly-funded Presidential committee may contribute or transfer funds to another publicly-funded committee of the same candidate for a previous election cycle to pay debts from the earlier campaign. The opinion concluded that such transfers or contributions are not qualified campaign expenses under 11 CFR 9034.4 and are not includable in the candidate's statement of net outstanding campaign obligations under 11 CFR 9034.5. However, such payments could be made from excess campaign funds once the audit process is concluded and any repayment or possible penalty obligations have been satisfied. Nothing in new 11 CFR part 116 would alter this conclusion.

Section 116.3 Extensions of Credit by Commercial Vendors

This new section generally follows previous § 114.10 by setting forth the standards for the extension of credit by corporations in the ordinary course of their business as commercial vendors. As under the previous rules, the failure to meet these standards results in an impermissible corporate contribution. New § 116.3 also adds corresponding standards for unincorporated commercial vendors who extend credit to candidates or political committees. An unincorporated vendor's failure to comply with these standards results in the making of a contribution subject to the dollar limits set forth in 11 CFR 110.1.

Paragraph (c) of § 116.3 lists the factors the Commission will consider in determining whether credit was extended in the ordinary course of business. These factors are intended to provide guidance so that commercial vendors and political committees may avoid situations resulting in the making or acceptance of excessive or prohibited contributions. The factors need not be accorded equal weight and in some cases a single factor may not be dispositive. In determining whether the ordinary course of business standard has been met, the Commission will also consider compliance or noncompliance with regulations issued by other Federal agencies.

One comment suggested that, instead of relying on these factors, the Commission adopt a presumption that a commercial vendor's credit arrangements reflect sound business judgment and that the presumption may be overcome with compelling evidence of a noncommercial motivation. The Commission has decided not to adopt this approach because it would provide committees and their creditors with little, if any, guidance as to what types of evidence would be evaluated or would be considered compelling.

Another witness at the public hearing suggested that it would be preferable for the Commission to rely upon judicial interpretations of the Federal Bankruptcy Code and the Internal Revenue Code regarding the meaning of "ordinary course of business," as well as the meaning of "commercially reasonable," a term which is used in § 116.4. Although the Commission will take these judicial interpretations into account in an appropriate case, these terms must be interpreted in light of the special focus of the FECA.

Section 116.4 Forgiveness or Settlement of Debts Owed to Commercial Vendors

Section 116.4 addresses the forgiveness or settlement of a political committee's debts owed to both incorporated and unincorporated commercial vendors. Previously, § 114.10 covered debts owed to corporations, but did not address debts owed to unincorporated commercial vendors. The forgiveness or settlement of such debts will result in the making of a prohibited corporate contribution or possibly an excessive contribution by an unincorporated vendor unless the debt settlement is commercially reasonable or unless the amount is not treated as a contribution under 11 CFR 100.7(b). In determining whether a debt settlement is commercially reasonable, the Commission will evaluate both the political committee's efforts to satisfy the debt and the creditor's efforts to obtain payment. However, the rules do not require the creditor or the debtor to undertake particular activities that are not likely to result in the reduction of the debt. For example, the commercial vendor is not required to go beyond its usual efforts to collect debts of similar amount from non-political entities.

One commenter questioned the validity of comparisons to non-political debtors and suggested instead that the Commission should focus on whether the vendor's actions were motivated by commercial or political considerations. The Commission recognizes that there are significant differences between political committees and other entities seeking to do business on credit, but believes that the standard suggested by the commenter is too subjective. Thus, reliance upon the "ordinary course of business" and "commercially reasonable" standards found in both the new rules and the previous regulations provides clearer guidelines for determining whether a commercial vendor's actions comply with the FECA than would be provided if the commenter's suggestion were adopted.

The Commission has revised the language of the previously proposed rules to clarify the political committee's obligations to make reasonable efforts to pay the debt and to comply with the debt settlement procedures specified in 11 CFR 116.7 and 116.8, including Commission review. *See* 11 CFR 116.4(c). Paragraph (d)(2) of § 116.4 lists the types of actions that the debtor committee may undertake to satisfy the reasonable efforts requirement.

Although the proposed rules had stated that a debt settlement would be considered commercially reasonable if the initial extension of credit was made in accordance with regulations issued by other agencies pursuant to 2 U.S.C. 451, this language has now been deleted to avoid creating the appearance that noncompliance with rules regarding such matters as reporting requirements of other agencies would automatically be viewed as not commercially reasonable. Nonetheless, regulations issued under section 451 may be used by the Commission as guidance in determining whether the activity in question was commercially reasonable under the FECA.

New paragraph (e) indicates that the Commission's regulations are not intended to force a commercial vendor to forgive or settle a political debt if the vendor does not wish to do so. This is consistent with the previous Commission practice of examining debt settlement statements for indications that creditors have agreed to the terms of the settlements. *See* Federal Election Commission Directive No. 3, Agenda Document #82–110 (effective July 22, 1982). Please note that a sentence has been deleted from the previously published version of paragraph (e) which merely restated the idea that committees and their vendors could agree to debt settlement or debt forgiveness.

In 11 CFR 116.4, new paragraph (f) has been added to clarify that the reporting obligations continue until the debt is paid, or until Commission review of the settlement or forgiveness is completed. This language parallels the corresponding reporting provisions in §§ 116.5 and 116.6, and is consistent with the continuous reporting requirements set out at current 11 CFR 104.11.

Section 116.5 Advances by Committee Staff and Other Individuals

New § 116.5 has been prepared to clarify the Commission's treatment of payments by individuals, including campaign staff, from personal funds and personal credit cards to purchase various goods or services for political committees with the expectation of subsequent reimbursement. The Commission has encountered situations, for example, where individuals have used, or sought to use, personal funds to purchase airfare, rental cars, meals, lodging, postage, office supplies, messenger services and a variety of other election-related items on behalf of political committees. *See, e.g.*, MUR 1349 and AO 1984–37. Although many campaign workers may only be able to advance relatively small amounts, individuals with sizable resources may have the ability to circumvent the contribution limitations by paying committee expenses and not expecting reimbursement for substantial periods of time. The Commission is concerned that this could occur during critical periods in a campaign when a candidate's authorized committee may be experiencing financial difficulties.

Under current § 100.7(b)(8), payments for personal transportation expenses incurred by individuals while traveling on behalf of candidates or political party committees are not contributions if they do not exceed $1000 per candidate per election or $2000 per year for the political committees of a political party. Personal funds used by volunteers for usual and normal subsistence expenses incidental to volunteer activity are also not considered contributions under 11 CFR 100.7(b)(8). However, payments by individuals for travel expenses that do not fall within these two exemptions are contributions under FECA.

The Commission has now decided to add new § 116.5 to clarify that payments by individuals using personal funds or personal credit cards to obtain goods or services for or on behalf of a political committee are contributions to that committee unless they fall within one of the exemptions set forth in § 100.7(b), as outlined above. In addition, this new provision sets out a limited exception for an individual's personal tranportation expenses, and for usual and normal subsistence expenses of an individual who is not a volunteer, where such expenses are incurred while the individual is traveling on behalf of a candidate or party committee. These exemptions only apply, however, if the individual's transportation and subsistence expenses are reimbursed within sixty days for credit card transactions or thirty days in other cases. On the other hand, an in-kind contribution will result if an individual pays the transportation or subsistence expenses of others or pays other types of campaign expenses, such as the costs of meeting rooms or telephone services, regardless of how long reimbursement, if any, takes.

The purpose of this provision is to provide flexibility in situations where individuals may find it necessary to pay personal travel and subsistence expenses. The Commission recognizes that campaign committees may not want to provide credit cards to their field workers. This regulation is also consistent with the treatment of credit card transactions in the public financing regulations. *See* 11 CFR 9035.2(a)(2).

One commenter testified that campaign staff should be able to make

advances of up to $500 for legitimate campaign expenses beyond the personal travel and subsistence expenses, provided the campaign reimburses the staff member within thirty or sixty days after receipt of a request for reimbursement. If such a request is not forthcoming, the campaign should seek it. The commenter argued that the expenses in question are usually for caterers, hotel rooms, and rental cars, not the staff's personal transportation or subsistence and, therefore, the commenter believed the proposed approach was simply too restrictive.

The Commission has decided not to adopt the commenter's suggested approach because it is inconsistent with the limited nature of the exemption from the definition of contribution in section 431(8)(B)(iv) of the FECA. Thus, under the final rules, advances made by individual staff members for expenses other than personal transportation or subsistence expenses are treated as in-kind contributions subject to the applicable contribution limits. Consequently, reimbursements for these nonexempt expenses are treated as refunds of the staff members' contributions.

Another commenter urged the Commission is extend this provision to committees other than campaign committees and party committees. The Commission believes that limiting this provision to candidates' committees and party committees parallels the transportation and subsistence exemption in section 431(8)(B)(iv) of the FECA. The Commission notes, however, that individuals may advance funds to separate segregated funds, and other unauthorized committees to the extent permitted by the contribution limits of the Act. *See* AO 1984–37 n. 2.

Paragraphs (b) and (d) of the new rule indicate that an unreimbursed payment must be treated as a debt and reported as such until the debt has been paid or settled or forgiven and the Commission's review of the debt settlement or forgiveness has been completed. The Commission wishes to emphasize that this rule does not require individual creditors to settle or forgive debts if they do not wish to do so.

A new "scope" paragraph has also been added to the final version of this regulation to clarify that individuals who are acting as commercial vendors are covered by the commercial vendor provisions of §§ 116.3 and 116.4. Thus, they are not covered by § 116.5, which is intended to apply to individuals extending credit or using credit cards in their personal capacities. The subsequent paragraphs of § 116.5 have been renumbered accordingly.

Finally, the Commission notes that individuals may also lend funds directly to political committees. Under both the old and new regulations, such loans are contributions until repaid, and if not repaid, such loans are contributions to the extent forgiven by the lender. 11 CFR 100.7(a)(1)(i)(B). Under new part 116 of the regulations, such personal loans must also be treated as outstanding debts, and if settled, the settlements are subject to Commission review under 11 CFR 116.7. Please note that the Commission's treatment of bank loans is discussed below in the Explanation and Justification for § 116.7.

Section 116.6 Salary Payments Owed to Employees

New § 116.6 addresses several situations which have arisen concerning unpaid salaries owed to committee staff. For example, a political committee and its campaign workers may agree that salary will be paid only as funds are available. In other cases, the committee may wish to treat the individuals as volunteers retroactively. Under section 431(8) of the Act and 11 CFR 100.7(b)(3), the value of services provided by a volunteer is not a contribution.

The language of new § 116.6 permits committees to treat the unpaid amount either as a debt owed to the employee or as volunteer services under 11 CFR 100.7(b)(3), provided the employee agrees in writing to be considered a volunteer. This decision may be made at any time, thereby allowing committees and their staffs to set up arrangements in which the staff members are paid up until the point at which the compaign is low on funding. If, on the other hand, the committee and the employee agree that the unpaid salary is to be treated as a debt, the amount owed is reportable as a debt under 11 CFR 104.3 and 104.11 and must be addressed in a debt settlement plan filed under 11 CFR 116.7. The new rules do not treat unpaid salary obligations as contributions, although the NPRM sought comments on situations in which it might be advisable to do so.

The Commission received one comment on § 116.6. The commenter stated that the Commission should avoid becoming involved in contractual disputes between committees and their employees, and supported the language in paragraph (a) which states that unpaid salaries shall not be treated as contributions. The commenter also questioned whether paragraph (b) would permit the settlement of such debts owed to employees, but would prohibit the complete forgiveness of these obligations. The new rules do permit such employees to forgive in full these unpaid amounts. Commission review of such forgiveness is not needed because the amounts would not be potential contributions, and a complete forgiveness would not adversely affect the committee's funds available to pay other creditors. The Commission notes that although an employee of a committee may become a volunteer, an individual who is an independent contractor, such as a consultant, may not convert to volunteer status. Such person is selling his or her services as a commercial vendor, and is therefore subject to the requirements of §§ 116.3 and 116.4. Consequently, an individual who is an independent contractor may agree to the settlement of a debt arising from the committee's failure to pay his or her fee, provided that such settlement is commercially reasonable and the settlement otherwise satisfies the Commission's debt settlement standards.

Section 116.7 Debt Settlement Plans Filed by Terminating Committees; Commission Review

New § 116.7 contains guidelines concerning the submission of debt settlement plans by terminating committees and explains the Commission's review procedures. For the reasons stated above, these rules differ from previous § 114.10 in that ongoing committees may no longer settle debts or file debt settlement requests. Another change is that the new regulations no longer provide for the filing of debt settlements by creditors. However, creditors wishing to write off bad debts should refer to new § 116.8, below.

New § 116.7 continues to permit terminating committees to file debt settlements once they have reached agreements with some of their creditors. Thus, the Commission has decided not to adopt the proposal published in the NPRM that would have required committees to postpone the filing of a debt settlement plan until they have reached agreements with every creditor. That approach would have enabled a single creditor to refuse to settle, thereby adversely affecting the ability of other creditors to be paid. However, the new rules encourage terminating committees to include as many proposed settlement agreements as possible in a debt settlement plan. In an appropriate case, the Commission may require the submission of additional debt settlement agreements before reviewing a terminating committee's debt settlement plan. This may be necessary to permit the Commission to conduct a realistic evaluation of the debt settlement plan.

The new rules do not establish a deadline for submitting a debt settlement for review once an agreement with a creditor has been reached. However, under new § 116.7(a), the terminating committee must postpone payment of the amount agreed to in the settlement with the creditor until the settlement has been submitted as part of a debt settlement plan and the Commission has completed its review of that plan. Please note that terminating committees are not required to settle all their debts or terminate within any prescribed amount of time. One commenter found the lack of a timetable to be troubling. Unfortunately, the establishment of an overall time limit is not feasible because different committees and different creditors may need different amounts of time to reach settlements.

The language of § 116.7(a) has been reworded from the proposals published in the NPRM to clarify that all debts and obligations must be paid, settled, forgiven, extinguished, or otherwise discharged, or become unpayable, prior to the political committee's termination.

Paragraphs (b) and (c) of § 116.7 indicate which types of debts may be settled subject to Commission review, which types may be settled but are not subject to review, and which debts may not be settled. New paragraph (b) has been added to explain that debts owed to commercial vendors, committee staff, employees, and debts arising from loans made by political committees and individuals, including candidates, may be settled and that the Commission will review such settlements. Under paragraph (c), publicly-funded Presidential candidates may not settle repayment obligations arising under 26 U.S.C. chapters 95 and 96. In addition, disputed debts are specifically excluded from the Commission's debt settlement process. This is based on current Commission policy and FEC Directive Number 3. Other debts or obligations owed to the United States government are not specifically mentioned in paragraph (b) or (c) because they may be governed by other applicable laws. Obligations to pay civil penalties are also omitted from these two paragraphs.

At the time the Commission issued the NPRM, it indicated that the revised debt settlement rules would not apply to bank loans, since the Commission does not generally consider bank loans in the debt settlement process, and does not intend to change its approach. Further guidance on this may be provided in a separate rulemaking regarding the bank loan rules at 11 CFR 100.7(b)(11) and 100.8(b)(12). *See* NPRM, 54 FR 31286 (July 27, 1989).

The reporting provisions of this section have been removed from draft paragraph (a) and placed in a separate paragraph (d) for the convenience of the reader.

Paragraph (e) sets forth a list of the information to be provided when the terminating committee submits a debt settlement plan for Commission review. From now on, the indebted committee will be required to include a signed statement from each creditor included in the plan evidencing agreement to the terms of the settlement of the debt owed to that creditor.

The wording of paragraph (e)(4) has been amended from the language presented in the NPRM to indicate that if the debt settlement plan does not provide for the settlement of all debts, the terminating committee must state how it intends to resolve all remaining debts and obligations, regardless of whether such debts may be settled. The purposes of this provision are to aid the Commission's evaluation of the debt settlements presented thus far in light of the terminating committee's overall financial picture, and to indicate how the terminating committee intends to complete its financial activities.

New paragraph (f) of § 116.7 sets out the factors the Commisson may consider in reviewing debt settlement plans. Most of these factors have been drawn from FEC Directive Number 3. They are now listed in the new rule to enable political committees and their creditors to better understand how the Commission evaluates debt settlement requests.

The Commission received one comment expressing concern that the Commission's review would be based on intuitive judgments rather than fixed standards. The Commission believes that it is impractical to establish fixed standards, given the potential for varying circumstances in debt settlement requests. However, the inclusion of these factors will offer sufficient guidance regarding the Commission's process. The commenter also stated that settlement agreements should become effective when made, and should not be delayed until completion of the Commission's review process. This concern may be alleviated, to some extent, by the Commission's decision to return to the current procedure of reviewing debt settlements as they are presented to the Commission, rather than waiting until all settlements have been reached.

New paragraph (g) has been added to this section to clarify the Commission's treatment of debts and obligations that are released through Bankruptcy Court decrees pursuant to 11 U.S.C. chapter 7. The terminating committee should attach a copy of the court order to its debt settlement plan, along with a list specifying which debts are covered by the order. For each debt covered, the terminating committee need not provide the signed affidavit from the creditor or the information regarding the initial extension of credit, subsequent efforts to collect, settlement terms, or the committee's ability to pay. However, the terminating committee is required to demonstrate that it qualifies as a terminating committee, and it must list in the debt settlement plan all debts not released, as well as the disposition of any residual funds or assets. Although a political committee may not be eligible for a chapter 7 discharge, the Commission will treat the debts as settled for FECA purposes if the candidate received a discharge under chapter 7 that applies to those debts.

116.8 Creditor Forgiveness of Debts Owed by Ongoing Committees; Commission Review

Section 116.8 establishes conditions under which creditors may forgive the outstanding balances of debts owed by committees not intending to terminate. For the reasons stated above, part 116 does not permit ongoing committees to settle debts with creditors if those committees have the ability and the intention to continue fundraising for election-related purposes. Consequently, new § 116.8 only allows creditors to forgive ongoing committees' debts if the creditors cannot locate the ongoing committees or if the ongoing committees meet certain conditions demonstrating that they are essentially defunct and clearly unable to pay their bills. An additional requirement has been added to those set out in the proposed rule: that the ongoing committee's disbursements not exceed $1000 during the previous twenty-four month period. Without this restriction, ongoing committees would be able to pay part of their debts and settle the rest simply by having the creditor declare that it has "forgiven" the outstanding balance. This section also establishes review procedures so that the Commission may ascertain whether the creditor's actions are commercially reasonable or whether the foregiveness would result in an apparent violation of the Act or the regulations.

Section 116.9 Creditors That Cannot be Found or That Are Out of Business

During the course of this rulemaking, the Commission determined that it is

advisable to address the situation where either an ongoing or a terminating committee cannot locate a creditor or the creditor has gone out of business. Consequently, new § 116.9 has now been added to permit committees in such circumstances to request that the debt be determined to be "unpayable" for purposes of the Act. Such a determination does not mean that the debt has been extinguished or is no longer owed. The political committee must demonstrate that it made the necessary efforts to reach the creditor. Once the Commission determines that a debt is "unpayable," the political committee may so indicate on its next due report, and then omit the debt from subsequent reports until there is a change in the status of the debt. Political committees with "unpayable" debts may terminate under 11 CFR 102.3.

Section 116.10 Disputed Debts

New § 116.10 has been added to the regulations to clarify the reporting of disputed debts, and to indicate what information concerning disputed debts should be included in a terminating committee's debt settlement plan.

The Commission has now revised the proposals presented in the NPRM in two respects. First, the final rule does not require the committee to report the fair market value of what was provided, since that may be in dispute. Secondly, paragraph (b) has been rewritten to more clearly state what information must be disclosed in the debt settlement plan regarding the disputed debt. The Commission received one comment on this new provision, which supported the draft rule.

Conforming Amendments

The Commission has determined that conforming amendments to §§ 100.7, 104.3, and 104.11 of the regulations are needed to clarify those provisions, and to make them consistent with the language of new part 116. One public comment was received, which supported the proposed changes to § 104.11.

The Notice of Proposed Rulemaking also suggested revising the definition of excess campaign funds in § 113.1(e) to prevent campaign committees from declaring excess campaign funds until after the campaign has ended and the committee has determined that it is not in a net debt situation. This proposal was intended to ensure that campaign funds would be used to pay for goods and services provided to the campaign rather than for a variety of political or nonpolitical purposes unrelated to the campaign. One comment opposed this revision in the absence of evidence that it is a common problem. The Commission has now concluded that the proposed language is not needed because the new requirements set out in § 116.2(c) adequately address these concerns.

Section 100.7 Contribution (2 U.S.C. 431(8))

The language of 11 CFR 100.7(a)(4) has been revised to clarify when the extension of credit, or the failure to attempt to collect the amount owed, or the settlement of a debt will result in a contribution by the creditor. The revised language more closely parallels the requirements set out in new 11 CFR part 116. In addition, new cross-references to 11 CFR 116.3 and 116.4 have been included to replace the current cross-references to 11 CFR 114.10.

Section 104.3 Contents of Reports (2 U.S.C. 434(b))

There are no substantive changes in this section. However, in paragraph (d), the cross-reference to previous § 114.10 has been revised to refer to new § 116.7.

Section 104.11 Continuous Reporting of Debts and Obligations

The Notice of Proposed Rulemaking sought comments on possible conforming amendments to 11 CFR 104.11(b), which concerns continuous reporting of debts and obligations. The Commission has now decided to make several changes to this regulation. First, the new language clarifies that debts exceeding $500 should be reported as of the date the debts are incurred. The current language says "as of the time of the transaction." Second, as the NPRM indicated, for amounts exceeding $500, disclosure is currently required for "any loan, debt or obligation," whereas for smaller amounts committees must disclose any "debt, obligation or other promise to make an expenditure." The revised language makes these two provisions consistent, since in practice the Commission has not drawn distinctions between these two categories. The revisions also clarify that periodic administrative costs incurred for rent and staff salaries need not be reported as debts if payment is not due before the end of the reporting period. However, if payment is not made on the due date, the amount outstanding must be reported as a debt. Finally, new language is also included which follows the current policy that if the exact amount of a debt is not known, the committee should report an estimated amount on schedule D, and then either amend the report or include the correct figure in a subsequent report when the exact amount has been determined. *See* AO 1980–38.

List of Subjects

11 CFR Part 100

Elections, Political committees and parties.

11 CFR Part 104

Political candidates, Political committees and parties, Reporting requirements.

11 CFR Part 114

Business and industry, Elections, Labor.

11 CFR Part 116

Administrative practice and procedure, Business and industry, Credit, Elections, Political candidates, Political committees and parties.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The attached final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that any small entities affected are already required to comply with the requirements of the Act in these areas.

For the reasons set out in the preamble, subchapter A, chapter I, title 11 of the Code of Federal Regulations is amended as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

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

Authority: 2 U.S.C. 431, 438(a)(8).

2. 11 CFR part 100 is amended by revising § 100.7(a)(4) to read as follows:

§ 100.7 Contribution (2 U.S.C. 431(8)).

(a) * * *

(4) The extension of credit by any person is a contribution unless the credit is extended in the ordinary course of the person's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation. If a creditor fails to make a commercially reasonable attempt to collect the debt, a contribution will result. (*See* 11 CFR 116.3 and 116.4.) If a debt owed by a political committee is forgiven or settled for less than the amount owed, a contribution results unless such debt is settled in accordance with the standards set forth at 11 CFR 116.3 and 116.4.

* * * * *

PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

3. The authority citation for part 104 continues to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8), and 438(b).

4. 11 CFR part 104 is amended by revising § 104.3(d) to read as follows:

§ 104.3 Contents of reports (2 U.S.C. 434(b)).

* * * * *

(d) *Reporting debts and obligations.* Each report filed under 11 CFR 104.1 shall, on schedule C or D, as appropriate, disclose the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Loans obtained by an individual prior to becoming a candidate for use in connection with that individual's campaign shall be reported as an outstanding loan owed to the lender by the candidate's principal campaign committee, if such loans are outstanding at the time the individual becomes a candidate. Where such debts and obligations are settled for less than their reported amount or value, each report filed under 11 CFR 104.1 shall contain a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the amount paid. *See* 11 CFR 116.7.

* * * * *

5. 11 CFR part 104 is amended by revising § 104.11(b) to read as follows:

§ 104.11 Continuous reporting of debts and obligations.

* * * * *

(b) A debt or obligation, including a loan, written contract, written promise or written agreement to make an expenditure, the amount of which is $500 or less, shall be reported as of the time payment is made or not later than 60 days after such obligation is incurred, whichever comes first. A debt or obligation, including a loan, written contract, written promise or written agreement to make an expenditure, the amount of which is over $500 shall be reported as of the date on which the debt or obligation is incurred, except that any obligation incurred for rent, salary or other regularly reoccurring administrative expense shall not be reported as a debt before the payment due date. *See* 11 CFR 116.6. If the exact amount of a debt or obligation is not known, the report shall state that the amount reported is an estimate. Once the exact amount is determined, the political committee shall either amend the report(s) containing the estimate or indicate the correct amount on the report for the reporting period in which such amount is determined.

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

6. The authority citation for part 114 continues to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 437d(a)(8), 438(a)(8), and 441b.

§ 114.10 [Removed and reserved]

7. 11 CFR part 114 is amended by removing and reserving § 114.10.

8. 11 CFR part 116 is added to read as follows:

PART 116—DEBTS OWED BY CANDIDATES AND POLITICAL COMMITTEES

Sec.
116.1 Definitions.
116.2 Debts owed by terminating committees, ongoing committees, and authorized committees.
116.3 Extensions of credit by commercial vendors.
116.4 Forgiveness or settlement of debts owed to commercial vendors.
116.5 Advances by committee staff and other individuals.
116.6 Salary payments owed to employees.
116.7 Debt settlement plans filed by terminating committees; Commission review.
116.8 Creditor forgiveness of debts owed by ongoing committees; Commission review.
116.9 Creditors that cannot be found or that are out of business.
116.10 Disputed debts.

Authority: 2 U.S.C. 433(d), 434(b)(8), 438(a)(8), 441a, 441b, and 451.

§ 116.1 Definitions.

(a) *Terminating committee.* For purposes of this part, "terminating committee" means any political committee that is winding down its political activities in preparation for filing a termination report, and that would be able to terminate under 11 CFR 102.3 except that it has outstanding debts or obligations. A political committee will be considered to be winding down its political activities if it has ceased to make or accept contributions and expenditures, other than contributions accepted for debt retirement purposes and expenditures representing payments of debts or obligations previously incurred or payments for the costs associated with the termination of political activity, such as the costs of complying with the post election requirements of the Act, if applicable, and other necessary administrative costs associated with winding down a campaign or winding down committee activities, including office space rental, staff salaries and office supplies.

(b) *Ongoing committee.* For purposes of this part, "ongoing committee" means any political committee that has not terminated and does not qualify as a terminating committee.

(c) *Commercial vendor.* For purposes of this part, "commercial vendor" means any persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of these goods or services.

(d) *Disputed debt.* For purposes of this part, "disputed debt" means an actual or potential debt or obligation owed by a political committee, including an obligation arising from a written contract, promise or agreement to make an expenditure, where there is a bona fide disagreement between the creditor and the political committee as to the existence or amount of the obligation owed by the political committee.

(e) *Extension of credit.* For purposes of this part, "extension of credit" includes but is not limited to:

(1) Any agreement between the creditor and political committee that full payment is not due until after the creditor provides goods or services to the political committee;

(2) Any agreement between the creditor and the political committee that the political committee will have additional time to pay the creditor beyond the previously agreed to due date; and

(3) The failure of the political committee to make full payment to the creditor by a previously agreed to due date.

(f) *Creditor.* For purposes of this part, "creditor" means any person or entity to whom a debt is owed.

§ 116.2 Debts owed by terminating committees, ongoing committees, and authorized committees.

(a) *Terminating committees.* A terminating committee may settle outstanding debts provided that the terminating committee files a debt settlement plan and the requirements of 11 CFR 116.7 are satisfied. The Commission will review each debt settlement plan filed to determine whether or not the terminating committee appears to have complied with the requirements set forth in this part, and whether or not the proposed debt settlement plan would result in an apparent violation of the Act or the Commission's regulations.

(b) *Ongoing committees.* Ongoing committees shall not settle any outstanding debts for less than the entire amount owed, but may request a Commission determination that such

debts are not payable under 11 CFR 116.9, and may resolve disputed debts under 11 CFR 116.10. Creditors may forgive debts owed by ongoing committees under the limited circumstances provided in 11 CFR 116.8.

(c) *Authorized committees.*

(1) An authorized committee shall not settle any outstanding debts for less than the entire amount owed if any other authorized committee of the same candidate has permissible funds available to pay part or all of the amount outstanding. Except as provided in paragraph (c)(3), of this section, an authorized committee shall not terminate under 11 CFR 102.3 if—

(i) It has any outstanding debts or obligations; or

(ii) It has any funds or assets available to pay part or all of the outstanding debts or obligations owed by another authorized committee of the same candidate and that other authorized committee is unable to pay such debts or obligations.

(2) No transfers of funds may be made from a candidate's authorized committee to another authorized committee of the same candidate if the transferor committee has net debts outstanding at the time of the transfer under the formula described in 11 CFR 110.1(b)(3)(ii).

(3) An authorized committee that qualifies as a terminating committee may assign debts to another authorized committee of the same candidate to the extent permitted under applicable state law provided that the authorized committee assigning the debts has no cash on hand or assets available to pay any part of the outstanding debts, and provided that the authorized committee assigning the debts was not organized to further the candidate's campaign in an election not yet held. If a Presidential candidate elects to receive federal funds pursuant to 11 CFR part 9001 *et seq.* or 11 CFR part 9031 *et seq.*, the authorized committee(s) of the Presidential candidate shall not assign debts or receive assigned debts until after the authorized committee(s) or the Presidential candidate has made all required repayments pursuant to 11 CFR parts 9007 and 9038 and has paid all civil penalties pursuant to 2 U.S.C. 437g. An authorized committee that has assigned all its outstanding debts may terminate if—

(i) The authorized committee that has assigned the debts otherwise qualifies for termination under 11 CFR 102.3; and

(ii) The authorized committee that received the assigned debts notifies the Commission in writing that it has assumed the obligation to pay the entire amount owed and that it has assumed the obligation to report the debts, and any contributions received for retirement of the assigned debts, in accordance with 11 CFR part 104. The assigned debts shall be disclosed on a separate schedule of debts and obligations attached to the authorized committee's reports. Contributions received for retirement of the assigned debts shall be disclosed on a separate schedule of receipts attached to the authorized committee's reports. *See* 11 CFR 110.1 (b)(3) and (b)(4) and 110.2 (b)(3) and (b)(4). The authorized committee that has assigned the debts shall notify each creditor in writing of the assignment no later than thirty days before the assignment takes effect and shall include the name and address of the authorized committee that will receive the assigned debts.

§ 116.3 Extensions of credit by commercial vendors.

(a) *Unincorporated vendor.* A commercial vendor that is not a corporation may extend credit to a candidate, a political committee or another person on behalf of a candidate or political committee. An extension of credit will not be considered a contribution to the candidate or political committee provided that the credit is extended in the ordinary course of the commercial vendor's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation.

(b) *Incorporated vendor.* A corporation in its capacity as a commercial vendor may extend credit to a candidate, a political committee or another person on behalf of a candidate or political committee provided that the credit is extended in the ordinary course of the corporation's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation.

(c) *Ordinary course of business.* In determining whether credit was extended in the ordinary course of business, the Commission will consider—

(1) Whether the commercial vendor followed its established procedures and its past practice in approving the extension of credit;

(2) Whether the commercial vendor received prompt payment in full if it previously extended credit to the same candidate or political committee; and

(3) Whether the extension of credit conformed to the usual and normal practice in the commercial vendor's trade or industry.

(d) *Extension of credit by regulated industries.* The Commission may rely on the regulations prescribed by the Federal Communications Commission, the Interstate Commerce Commission, and the Department of Transportation on behalf of the Civil Aeronautics Board, issued pursuant to 2 U.S.C. 451 and any other regulations prescribed by other Federal agencies to determine whether extensions of credit by the entities regulated by those Federal agencies were made in the ordinary course of business.

§ 116.4 Forgiveness or settlement of debts owed to commercial vendors.

(a) *Unincorporated vendor.* A commercial vendor that is not a corporation may forgive or settle a debt incurred by a candidate, a political committee or another person on behalf of a candidate or political committee for less than the entire amount owed on the debt. The amount forgiven will not be considered a contribution by the commercial vendor to the candidate or political committee if—

(1) The amount forgiven is exempted from the definition of contribution in 11 CFR 100.7(b); or

(2) The commercial vendor has treated the debt in a commercially reasonable manner and the requirements of 11 CFR 116.7 or 116.8, as appropriate, are satisfied.

(b) *Incorporated vendor.* A corporation may not forgive or settle a debt incurred by a candidate, a political committee or another person on behalf of a candidate or political committee for less than the entire amount owed on the debt unless—

(1) The amount forgiven is exempted from the definition of contribution in 11 CFR 100.7(b); or

(2) The corporation has treated the debt in a commercially reasonable manner and the requirements of 11 CFR 116.7 or 116.8, as appropriate, are satisfied.

(c) *Reasonable efforts by a political committee.* A debt or obligation owed by a candidate or a political committee may be totally forgiven (*see* 11 CFR 116.8), or settled (*see* 11 CFR 116.7), provided that—

(1) The amount forgiven is exempted from the definition of contribution in 11 CFR 100.7(b); or

(2) The candidate and the political committee have undertaken all reasonable efforts to satisfy the outstanding debt and the requirements of 11 CFR 116.7 or 116.8, as appropriate, including the submission of the information specified in those sections and Commission review, are satisfied.

(d) *Commercially reasonable.* The Commission will determine that a debt settlement between a political committee and a commercial vendor is commercially reasonable if—

(1) The initial extension of credit was made in accordance with 11 CFR 116.3;

(2) The candidate or political committee has undertaken all reasonable efforts to satisfy the outstanding debt. Such efforts may include, but are not limited to, the following—

(i) Engaging in fundraising efforts;

(ii) Reducing overhead and administrative costs; and

(iii) Liquidating assets; and

(3) The commercial vendor has pursued its remedies as vigorously as it would pursue its remedies against a nonpolitical debtor in similar circumstances. Such remedies may include, but are not limited to, the following—

(i) Oral and written requests for payment;

(ii) Withholding delivery of additional goods or services until overdue debts are satisfied;

(iii) Imposition of additional charges or penalties for late payment;

(iv) Referral of overdue debts to a commercial debt collection service; and

(v) Litigation.

(e) *Settlement or forgiveness not required.* The provisions of this part shall not be construed to require a commercial vendor to forgive or settle the debt for less than the entire amount owed.

(f) *Reporting.* The political committee shall continue to report the debt in accordance with 11 CFR 104.3(d) and 104.11 until the Commission has completed a review of the debt settlement plan pursuant to 11 CFR 116.7(f) or until the Commission has completed a review of the request to forgive the debt pursuant to 11 CFR 116.8, or until the political committee pays the debt, whichever occurs first.

§ 116.5 Advances by committee staff and other individuals.

(a) *Scope.* This section applies to individuals who are not acting as commercial vendors. Individuals who are acting as commercial vendors shall follow the requirements of 11 CFR 116.3 and 116.4.

(b) *Treatment as contributions.* The payment by an individual from his or her personal funds, including a personal credit card, for the costs incurred in providing goods or services to, or obtaining goods or services that are used by or on behalf of, a candidate or a political committee is a contribution unless the payment is exempted from the definition of contribution under 11 CFR 100.7(b)(8). If the payment is not exempted under 11 CFR 100.7(b)(8), it shall be considered a contribution by the individual unless—

(1) The payment is for the individual's transportation expenses incurred while traveling on behalf of a candidate or political committee of a political party or for usual and normal subsistence expenses incurred by an individual, other than a volunteer, while traveling on behalf of a candidate or political committee of a political party; and

(2) The individual is reimbursed within sixty days after the closing date of the billing statement on which the charges first appear if the payment was made using a personal credit card, or within thirty days after the date on which the expenses were incurred if a personal credit card was not used. For purposes of this section, the "closing date" shall be the date indicated on the billing statement which serves as the cutoff date for determining which charges are included on that billing statement.

(c) *Treatment as debts.* A political committee shall treat the obligation arising from a payment described in paragraph (b) of this section as an outstanding debt until reimbursed.

(d) *Settlement or forgiveness of the debt.* The individual and the political committee may agree to the total forgiveness of the debt (*See* 11 CFR 116.8) or a settlement of the debt for less than the entire amount owed (*See* 11 CFR 116.7), provided that the requirements of 11 CFR 116.7 or 116.8, as appropriate, including the submission of the information specified in these sections and Commission review, are satisfied. The provisions of this part shall not be construed to require the individual to forgive or settle the debt for less than the entire amount owed.

(e) *Reporting.* The political committee shall continue to report the obligation arising from the payment as a debt in accordance with 11 CFR 104.3(d) and 104.11 until the Commission has completed a review of the debt settlement plan pursuant to 11 CFR 116.7(f) or until the Commission has completed a review of the request to forgive the debt pursuant to 11 CFR 116.8, or until the political committee pays the debt, whichever occurs first.

§ 116.6 Salary payments owed to employees.

(a) *Treatment as debts or volunteer services.* If a political committee does not pay an employee for services rendered to the political committee in accordance with an employment contract or a formal or informal agreement to do so, the unpaid amount either may be treated as a debt owed by the political committee to the employee or, provided that the employee signs a written statement agreeing to be considered a volunteer, converted to a volunteer services arrangement under 11 CFR 100.7(b)(3). The unpaid amount shall not be treated as a contribution under 11 CFR 100.7.

(b) *Settlement or forgiveness of the debt.* If the unpaid amount is treated as a debt, the employee and the political committee may agree to a settlement of the debt for less than the entire amount owed pursuant to 11 CFR 116.7. The provisions of this part shall not be construed to require the employee to settle the debt for less than the entire amount owed.

(c) *Reporting.* If the unpaid amount is treated as a debt, the political committee shall continue to report the debt in accordance with 11 CFR 104.3(d) and 104.11 until the Commission has completed a review of the debt settlement plan pursuant to 11 CFR 116.7(f) or until the employee agrees to be considered a volunteer, or until the political committee pays the debt, whichever occurs first.

§ 116.7 Debt settlement plans filed by terminating committees; Commission review.

(a) *Procedures for filing debt settlement plans.* Every terminating committee as defined in 11 CFR 116.1(a) shall file at least one debt settlement plan with the Commission prior to filing its termination report under 11 CFR 102.3. The terminating committee shall file a debt settlement plan after the creditors included in the debt settlement plan have agreed to the settlement or forgiveness of the particular debt(s) owed to each of them. The terminating committee shall not make any payments to the creditors included in the debt settlement plan until completion of Commission review. The Commission encourages terminating committees to include as many debt settlement agreements as possible in a debt settlement plan. The terminating committee shall not file its termination report under 11 CFR 102.3 and shall not terminate until each debt or obligation owed either:

(1) Has been paid in full;

(2) Has been settled and the requirements of this section, including Commission review, have been satisfied;

(3) Has been forgiven by the creditor and the requirements of 11 CFR 116.8, including Commission review, have been satisfied;

(4) Has been determined not to be payable pursuant to 11 CFR 116.9; or

(5) Has been otherwise extinguished or discharged.

(b) *Debts subject to settlement.* Debts and obligations subject to the debt settlement and Commission review requirements and procedures set forth in this section include:

(1) Amounts owed to commercial vendors (*See* 11 CFR 116.3 and 116.4);

(2) Debts arising from advances by committee staff and other individuals (*See* 11 CFR 116.5);

(3) Salary owed to committee employees (*See* 11 CFR 116.6); and

(4) Debts arising from loans from political committees or individuals, including candidates, to the extent permitted under 11 CFR part 110.

(c) *Debts that shall not be settled; Disputed debts.*

(1) Debts and obligations that shall not be forgiven or settled for less than the entire amount owed include repayment obligations pursuant to 11 CFR 9007.2, 9008.10, 9008.11, 9038.2 or 9038.3 of funds received from the Presidential Election Campaign Fund or the Presidential Primary Matching Payment Account.

(2) Disputed debts are not subject to the debt settlement and Commission review requirements and procedures. (*See* CFR 116.10).

(d) *Reporting.* The terminating committee shall continue to report each outstanding debt or obligation included in a debt settlement plan in accordance with 11 CFR 104.3(d) and 104.11 until the Commission has completed a review of the debt settlement plan pursuant to paragraph (f) of this section. The terminating committee shall continue to report all remaining debts and obligations not included in the debt settlement plan in accordance with 11 CFR 104.3 and 104.11.

(e) *Contents of debt settlement plans.*

(1) The debt settlement plan shall provide the following information on each debt covered by the plan—

(i) The terms of the initial extension of credit and a description of the terms under which the creditor has extended credit to nonpolitical debtors of similar risk and size of obligation;

(ii) A description of the efforts made by the candidate or the terminating committee to satisfy the debt;

(iii) A description of the remedies pursued by the creditor to obtain payment of the debt and a comparison to the remedies customarily pursued by the creditor in similar circumstances involving nonpolitical debtors; and

(iv) The terms of the debt settlement and a comparison to the terms of the creditor's other debt settlements involving nonpolitical debtors in similar circumstances, if any.

(2) Each debt settlement plan filed under this section shall include a signed statement from each creditor covered indicating agreement to the terms of the settlement of the debt owed to that creditor.

(3) The debt settlement plan shall include a statement as to whether the terminating committee has sufficient cash on hand to pay the total amount indicated in the debt settlement plan, and if not, a statement as to what steps the terminating committee will take to obtain the funds needed to make the payments.

(4) If a debt settlement plan does not include settlements for all of the terminating committee's outstanding debts and obligations, the debt settlement plan shall include a separate list of all of the terminating committee's remaining debts and obligations, including debts that are not subject to debt settlement as set forth in paragraph (c) of this section. The debt settlement plan shall indicate—

(i) Whether the terminating committee intends to pay the entire amount still owed on each remaining debt or obligation or to settle such debts and obligations, and if settlement is contemplated, the terms that were or will be offered to the creditor(s); and

(ii) Whether the terminating committee has sufficient cash on hand to pay such remaining debts and obligations, or to pay a lesser portion of such amounts, and if not, what steps the terminating committee will take to obtain the funds needed to make such payments.

(5) If the terminating committee expects to have residual funds or assets after disposing of all its outstanding debts and obligations, the debt settlement plan shall include a statement as to the purpose for which such residual funds or assets will be used. *See* 11 CFR 110.1(b)(3)(iii) regarding contributions received to pay net debts outstanding owed by authorized committees.

(6) The political committee filing the debt settlement plan shall demonstrate in the debt settlement plan that such political committee qualifies as a terminating committee under 11 CFR 116.1(a) and shall state when the political committee expects to file a termination report under 11 CFR 102.3.

(7) Upon the Commission's request, the candidate, the terminating committee or the creditor shall provide such additional information as the Commission may require to review the debt settlement plan. The Commission may also require the submission of additional debt settlement agreements prior to Commission review of the debt settlement plan.

(f) *Commission review of debt settlement plans.* In reviewing the debt settlement plan, the Commission will consider—

(1) The information provided by the terminating committee and the creditors under this section;

(2) The amount of each debt that remains unpaid and the length of time each debt has been overdue;

(3) The amount and percentage of each debt that would be forgiven under the plan;

(4) The total amount of debts and obligations owed by the terminating committee to all creditors, compared to the total amount of cash on hand and other amounts available to pay those debts and obligations;

(5) The year to date expenditures and receipts of the terminating committee; and

(6) Whether the total percentage that was or will be repaid on any loans made by the candidate to the terminating committee is comparable to the total percentage that was or will be paid to other creditors.

(g) *Debts dischargeable in bankruptcy.* If a terminating committee is released from debts or obligations pursuant to a discharge under 11 U.S.C. chapter 7, the terminating committee's debt settlement plan shall include a copy of the order issued by the Bankruptcy Court of the United States so indicating, and a list of all debts and obligations from which the terminating committee is released, in lieu of the information specified in paragraphs (e)(1), (e)(2), and (e)(3) of this section.

§ 116.8 Creditor forgiveness of debts owed by ongoing committees; Commission review.

(a) *General requirements.* A creditor may forgive the outstanding balance of a debt owed by an ongoing committee if the creditor and the ongoing committee have satisfied the requirements of 11 CFR 116.3 or 116.5, as appropriate, regarding extensions of credit by commercial vendors and advances by committee staff and other individuals, and the debt has been outstanding for at least twenty-four months, and—

(1) The creditor has exercised reasonable diligence in attempting to locate the ongoing committee and has been unable to do so; or

(2) The ongoing committee—

(i) Does not have sufficient cash on hand to pay the creditor;

(ii) Has receipts of less than $1000 during the previous twenty-four months;

(iii) Has disbursements of less than $1000 during the previous twenty-four months; and

(iv) Owes debts to other creditors of such magnitude that the creditor could reasonably conclude that the ongoing committee will not pay this particular debt.

(b) *Procedures for forgiving debts.* A creditor that intends to forgive a debt owed by an ongoing committee shall notify the Commission by letter of its intent. The letter shall demonstrate that the requirements set forth in paragraph (a) of this section are satisfied. The letter shall provide the following information—

(1) The terms of the initial extension of credit and a description of the terms under which the creditor has extended credit to nonpolitical debtors of similar risk and size of obligation;

(2) A description of the efforts made by the candidate or the ongoing committee to satisfy the debt;

(3) A description of the remedies pursued by the creditor to obtain payment of the debt and a comparison to the remedies customarily pursued by the creditor in similar circumstances involving nonpolitical debtors; and

(4) An indication that the creditor has forgiven other debts involving nonpolitical debtors in similar circumstances, if any.

(c) *Commission review.* Upon the Commission's request, the ongoing committee or the creditor shall provide such additional information as the Commission may require to review the creditor's request. The Commission will review each request to forgive a debt to determine whether the candidate, the ongoing committee, and the creditor have complied with the requirements of 11 CFR part 116, and whether or not the forgiveness of the debt would result in an apparent violation of the Act or the Commission's regulations.

§ 116.9 Creditors that cannot be found or that are out of business.

(a) *General requirements.* A political committee may request that the Commission determine that a debt owed to a creditor is not payable for purposes of the Act if the debt has been outstanding for at least twenty-four months, and the requirements of paragraph (b) or (c) of this section, as appropriate, have been satisfied, and—

(1) The creditor has gone out of business and no other entity has a right to be paid the amount owed; or

(2) The political committee has exercised reasonable diligence in attempting to locate the creditor and has been unable to do so. "Reasonable diligence in attempting to locate the creditor" means the political committee has attempted to ascertain the current address and telephone number, and has attempted to contact the creditor by registered or certified mail, and either in person or by telephone.

(b) *Terminating committees.* If the political committee making the request is a terminating committee, the terminating committee shall include the request in a debt settlement plan filed with the Commission, and shall demonstrate that the requirements of 11 CFR 116.3, 116.5 or 116.6, as appropriate, and 116.9(a) are satisfied. The terminating committee shall continue to disclose the debt on its schedules of outstanding debts and obligations until the Commission has completed its review of the debt settlement plan pursuant to 11 CFR 116.7(f) and has determined that the debt is not payable for purposes of the Act.

(c) *Ongoing committees.* If the political committee making the request is an ongoing committee, the ongoing committee shall make the request in writing and shall demonstrate that the requirements of 11 CFR 116.3, 116.5 or 116.6, as appropriate, and 116.9(a) are satisfied. The Commission will review the request to determine whether the ongoing committee and the creditor have complied with the requirements of 11 CFR part 116, and to determine whether reporting the debt as not payable would result in an apparent violation of the Act or the Commission's regulations. The ongoing committee shall continue to disclose the debt on its schedules of outstanding debts and obligations until the Commission has completed its review of the request and has determined that the debt is not payable for purposes of the Act.

(d) *Reporting.* Upon notification that the Commission has determined that the debt is not payable for purposes of the Act, the political committee may list the debt as not payable on the next due report. Notwithstanding 11 CFR 104.11, the debt does not have to be included in subsequent reports unless the status of the debt changes. The presence of a debt that the Commission has determined is not payable shall not bar the political committee from terminating its registration pursuant to 11 CFR 102.3.

§ 116.10 Disputed debts.

(a) *Reporting disputed debts.* A political committee shall report a disputed debt in accordance with 11 CFR 104.3(d) and 104.11 if the creditor has provided something of value to the political committee. Until the dispute is resolved, the political committee shall disclose on the appropriate reports any amounts paid to the creditor, any amount the political committee admits it owes and the amount the creditor claims is owed. The political committee may also note on the appropriate reports that the disclosure of the disputed debt does not constitute an admission of liability or a waiver of any claims the political committee may have against the creditor. (*See also* 11 CFR 9035.1(a)(2) regarding the effect of disputed debts on a candidate's expenditure limitations under 11 CFR part 9035.)

(b) *Disputed debts owed by terminating committees.* If a terminating committee and a creditor have been unable to resolve a disputed debt, and the terminating committee files a debt settlement plan covering other debts or other creditors, the terminating committee shall include in the debt settlement plan a brief description as to the nature of the dispute and the status of the terminating committee's efforts to resolve the dispute. The debt settlement plan need not include a signed affidavit from the creditor involved in the dispute pursuant to 11 CFR 116.7(e)(2).

Dated: June 22, 1990.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 90-14919 Filed 6-26-90; 8:45 am]

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Part VII

Federal Election Commission

11 CFR Parts 106, 9003, 9007, 9033, 9035, and 9038

Presidential Primary and General Election Candidates; Technical Requirements for Computerized Magnetize Media; Final Rule; Transmittal of Regulations to Congress

FEDERAL ELECTION COMMISSION

11 CFR Parts 106, 9003, 9007, 9033, 9035 and 9038

[Notice 1990-9]

Presidential Primary and General Election Candidates; Technical Requirements for Computerized Magnetic Media

AGENCY: Federal Election Commission.

ACTION: Final rule; transmittal of regulations to Congress.

SUMMARY: The Commission has revised its regulations concerning the production of computerized information maintained or used by publicly-funded Presidential primary and general election campaign committees. The Commission has also prepared a document entitled "Computerized Magnetic Media Requirements for Title 26 Candidates/Committees Receiving Federal Funding" (CMMR) that sets forth technical standards designed to ensure the compatibility of magnetic media provided for Commission use during the mandatory audits of these publicly-funded campaign committees. The CMMR is available on request from the Commission's Public Records Office or the Audit Division. The Commission will issue a separate notice detailing revisions to other rules governing Presidential primary and general election candidates at a later date. Further information is provided in the supplementary information which follows.

EFFECTIVE DATES: Further action, including the announcement of an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d) and 26 U.S.C. 9009(c) and 9039(c). A document announcing the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, (202) 376-5690 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing today the final text of new regulations at 11 CFR 9003.6 and 9033.12, and revised regulations at 11 CFR 106.2(c), 9003.3(a), 9007.1(b), 9035.1(c) and 9038.1(b) which govern the production of computerized magnetic media, including magnetic tape and magnetic diskettes, by the authorized committees of Presidential primary and general election candidates.

On April 4, 1990 the Commission issued a Notice of Proposed Rulemaking (NPRM) in which it sought comments on proposed revisions to these regulations. 55 FR 12499. One written comment was received in response to the Notice.

Section 438(d) of title 2, United States Code, and 26 U.S.C. 9009(c) and 9039(c), require that any rule or regulation prescribed by the Commission to carry out the provisions of titles 2 and 26 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days before they are finally promulgated. These regulations were transmitted to Congress on June 22, 1990.

Explanation and Justification

The current primary and general election regulations covering candidate agreements at 11 CFR 9003.1(b)(4) and 9033.1(b)(5) require that publicly-funded campaigns which maintain computerized financial records provide computer tapes containing this information to the Commission for use during the Commission's mandatory audit of these committees. During the 1988 election cycle, the Commission encountered difficulty in obtaining computer tapes that were uniformly formatted, thereby necessitating considerable resources for reformatting. This delayed the completion of certain audits and entailed additional expense.

Given the amount of time and the costs involved in producing compatible computer tapes, the Commission has prepared new §§ 9003.6 and 9033.12, and revisions to 11 CFR 106.2, 9003.3, 9007.1, 9035.1, and 9038.1 to clarify three aspects of this process. First, the new language provides a list of the types of computerized information the audited committees must produce. The changes in the rules also ensure that committees will understand that they must provide these materials in a prescribed format. Finally, the rules clarify that in the future the costs of production will be borne by the audited committee, not the Commission. The Commission has also developed new technical standards which are set forth in a document entitled "Computerized Magnetic Media Requirements for title 26 Candidates/Committees Receiving Federal Funding" (CMMR). These standards cover both magnetic tapes and magnetic diskettes. The Commission received one comment on these proposals from the Internal Revenue Service, which found no conflict with the Internal Revenue Code or the regulations thereunder.

The Commission intends to amend the regulations regarding candidate agreements at 11 CFR 9003.1(b)(4) and 9033.1(b)(5) when other aspects of the Presidential primary and general election regulations are addressed in a Notice of Proposed Rulemaking. Similarly, when the Commission revises the rules governing presidential nominating conventions at 11 CFR part 9008, it will include parallel provisions requiring the production of computerized magnetic media by publicly-funded convention committees. Thus, the technical standards set out in the CMMR will also apply to these convention committees.

The following discussion of the new and revised sections follows the chronological order of the sections as they appear in 11 CFR, beginning with the allocation provision for primary candidates (§ 106.2). This is followed by the general election provisions (§§ 9003.3, 9003.6, and 9007.1), and then the rest of the primary election provisions (§§ 9033.12, 9035.1, and 9038.1). The discussion of the general election rules is very similar to the discussion of the primary rules because parallel changes have been made in the primary and general election regulations.

Section 106.2 State allocation of expenditures incurred by authorized committees of Presidential primary candidates receiving matching funds

Paragraph (c)(5)(i) of this section has been revised to clarify that exempt compliance costs may include the costs associated with producing and delivering computerized information and materials, and the costs associated with explaining the operation of a committee's computer software, if the committee maintains or uses computerized financial information. Further information regarding the types of computerized information that must be produced is located in new § 9033.12.

Section 9003.3 Allowable contributions

The Commission has revised paragraphs (a)(2), (b)(6) and (c)(3) of § 9003.3 to indicate that exempt compliance costs for general election candidates may include the costs associated with producing and delivering computerized information and materials, and the costs associated with explaining the operation of a committee's computer software, if the committee maintains or uses computerized financial information. Further information regarding the types of computerized information that must be produced is located in new § 9003.6.

Section 9003.6 Production of computer information

New § 9003.6 has been added to the regulations to indicate the types of computerized financial data the

Commission will request when it audits publicly-funded Presidential campaign committees of general election candidates that maintain or use computerized financial records. This new section also indicates that such computerized information shall be provided at the committee's expense and must conform to uniform format specifications set forth in a new document entitled "Computerized Magnetic Media Requirements for title 26 Candidates/Committees Receiving Federal Funding" (CMMR).

Paragraph (a) of this section lists examples of the types of computerized information that authorized committees would be required to supply if they maintain or use computerized information containing certain categories of data. A committee will be considered to use such information even if another person or entity maintains such information on the committee's behalf. The list has been drawn from the Commission's experience as to the types of data authorized committees of publicly-funded presidential campaign committees have tended to maintain or use in the past. However, if a presidential campaign committee does not wish to computerize part or all of its financial records, the new rules do not require it to do so.

New paragraph (b) of this section states that the costs of producing the computerized information are to be borne solely by the committee to be audited. The previous rules did not address the treatment of such costs. These costs include the costs associated with converting data to meet the proposed technical requirements, providing formats/layouts, user guides, technical manuals and other information for processing and analyzing the computerized information provided, and making personnel familiar with the materials provided and the operation of the computer system's software available to answer questions from the Commission's staff. If committees select their computer systems with the Commission's technical standards in mind, the marginal cost of meeting these standards should be significantly less than the costs of converting their data from a format that was chosen without considering the prescribed technical standards.

Paragraph (b) of new § 9003.6 also indicates that the computerized magnetic media must meet certain technical specifications established by the Commission. The new technical standards are included in the CMMR, which is available upon request from the Commission's Public Records Office or the Audit Division. These standards include general requirements for magnetic tape and magnetic diskettes, as well as file format specifications for records of receipts and disbursements, including contributors, vendors, invoices, bank account and check files. The technical standards found in the CMMR will also be published as a supplement to the Commission's Financial Control and Compliance Manual for General Election Candidates Receiving Public Funding to ensure distribution to the committees affected by the technical specifications. The Commission encourages committees to provide samples of their magnetic tape or magnetic diskettes so that the Commission may determine whether the samples comply with the specifications established.

Paragraph (c) of new § 9003.6 requires the production of technical manuals and other materials if needed to understand the computerized magnetic tapes or magnetic diskettes provided. However, as in the past, the rules do not require production of copyrighted computer software. Upon request, the authorized committee will also be expected to make available personnel familiar with the computerized information and the operation of the computer software.

Please note that the technical requirements found in the CMMR are not intended to promote or discourage the use of any particular computer system or software. The Commission believes that committees should have as much discretion as possible in selecting the computer equipment they wish to use, determining what types of financial records and information should be computerized, and deciding how the computerized information is maintained. However, committees will be expected to present this financial information to the Commission in the format specified in the CMMR.

Section 9007.1 Audits

Paragraph (b)(1) of § 9007.1 has been revised to establish time frames under which publicly-funded presidential campaign committees of general election candidates must produce computerized magnetic tapes or magnetic diskettes which meet the technical specifications set out in the new CMMR, if the committees maintain or use computerized financial records. New § 9003.6 lists the types of computerized financial data that must be provided to the Commission if maintained or used by the committee. The Commission generally will request such computerized information prior to the commencement of audit fieldwork. The audited committee will be given 15 days to produce the materials requested. Once the Commission has obtained the computerized magnetic media meeting the technical specifications, the committee will be given at least two weeks notice of the start of audit fieldwork. This is intended to ensure adequate time for Commission staff to review the files in preparation for fieldwork. During or after fieldwork, the Commission may request additional computerized materials. The new rules allow 15 days for the production of the additional information. These time frames take into account the fact that the authorized committee will know well in advance the technical specifications and format requirements it must meet to ensure compatibility. The Commission believes that production of computer information and materials prior to fieldwork may reduce the overall time needed to conduct fieldwork and complete the audit process.

Section 9033.12 Production of computerized information

New § 9033.12 has been added to the regulations to indicate the types of computerized financial data the Commission will request when it audits authorized committees of publicly-funded Presidential primary election candidates that maintain or use computerized financial records. This new section also indicates that such computerized information shall be provided at the committee's expense and must conform to uniform format specifications set forth in a new document entitled "Computerized Magnetic Media Requirements for Title 26 Candidates/Committees Receiving Federal Funding" (CMMR).

Paragraph (a) of this section lists examples of the types of computerized information that authorized committees would be required to supply if they maintain or use computerized information containing certain categories of data. A committee will be considered to use such information even if another person or entity maintains such information on the committee's behalf. The list has been drawn from the Commission's experience as to the types of data authorized committees of publicly-funded presidential candidates have tended to maintain or use in the past. However, if a presidential campaign committee does not wish to computerize part or all of its financial records, the new rules do not require it to do so.

New paragraph (b) of this section states that the costs of producing the computerized information are to be

borne solely by the committee to be audited. The previous rules did not address the treatment of such costs. These costs include the costs associated with converting data to meet the proposed technical requirements, providing formats/layouts, user guides, technical manuals and other information for processing and analyzing the computerized information provided, and making personnel familiar with the materials provided and the operation of the computer system's software available to answer questions from the Commission's staff. If committees select their computer systems with the Commission's technical standards in mind, the marginal cost of meeting these standards should be significantly less than the costs of converting their data from a format that was chosen without considering the prescribed technical standards.

Paragraph (b) of new § 9033.12 also indicates that the computerized magnetic media must meet certain technical specifications established by the Commission. The new technical standards are included in the CMMR, which is available upon request from the Commission's Public Records Office or the Audit Division. These standards include general requirements for magnetic tape and magnetic diskettes, as well as file format specifications for records of receipts and disbursements, including contributors, vendors, invoices, bank account and check files. The technical standards found in the CMMR will also be published as a supplement to the Commission's Guideline for Presentation in Good Order to ensure distribution to the committees affected by the technical specifications. The Commission encourages committees to provide samples of their magnetic tape or magnetic diskettes so that the Commission may determine whether the samples comply with the specifications established.

Paragraph (c) of new § 9033.12 requires the production of technical manuals and other materials if needed to understand the computerized magnetic tapes or magnetic diskettes provided. However, as in the past, the rules do not require production of copyrighted computer software. Upon request, the authorized committee will also be expected to make available personnel familiar with the computerized information and the operation of the computer software.

Please note that the technical requirements found in the CMMR are not intended to promote or discourage the use of any particular computer system or software. The Commission believes that committees should have as much discretion as possible in selecting the computer equipment they wish to use, determining what types of financial records and information should be computerized, and deciding how the computerized information is maintained. However, committees will be expected to present this financial information to the Commission in the format specified in the CMMR.

Section 9035.1 Campaign expenditure limitation

The Commission has revised 11 CFR 9035.1(c)(1) to indicate that exempt compliance costs for Presidential primary election candidates may include the costs associated with producing and delivering computerized information and materials, and the costs associated with explaining the operation of a committee's computer software, if the committee maintains or uses computerized financial information. Further information regarding the types of computerized information that must be produced is located in new § 9033.12.

Section 9038.1 Audit

Paragraph (b)(1) of § 9038.1 has been revised to establish time frames under which publicly-funded presidential campaign committees of primary election candidates that maintain or use computerized financial records must produce computerized magnetic tapes or magnetic diskettes which meet the technical specifications set out in the new CMMR. New § 9033.12 lists the types of computerized financial data that must be provided to the Commission if maintained or used by the committee. The Commission generally will request such computerized information prior to the commencement of audit fieldwork. The audited committee will be given 15 days to produce the materials requested. Once the Commission has obtained the computerized magnetic media meeting the technical specifications, the committee will be given at least two weeks notice of the start of audit fieldwork. This is intended to ensure adequate time for Commission staff to review the files in preparation for fieldwork. During or after fieldwork, the Commission may request additional computerized materials. The new rules allow 15 days for the production of the additional information. These time frames take into account the fact that the authorized committee will know well in advance the technical specifications and format requirements it must meet to ensure compatibility. The Commission believes that production of computer information and materials prior to fieldwork may reduce the overall time needed to conduct fieldwork and complete and audit process.

List of Subjects

11 CFR Part 106

Campaign funds, Political candidates, Political committees and parties.

11 CFR Part 9003

Compaign funds, Elections, Political candidates.

11 CFR Part 9007

Administrative practice and procedure, Campaign funds, Political candidates.

11 CFR Part 9033

Campaign funds, Elections, Political candidates.

11 CFR Part 9035

Campaign funds, Elections, Political candidates.

11 CFR Part 9038

Administrative practice and procedure, Campaign funds, Political candidates.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The attached final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that few, if any, small entities are affected by these proposed rules. Further, any small entities affected are already required to comply with the requirements of the Act in these areas.

For the reasons set out in the preamble, subchapters A, E and F, chapter I of title 11 of the Code of Federal Regulations are amended as follows:

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

1. The authority citation for part 106 is revised to read as follows:

Authority: 2 U.S.C. 438(a)(8), 441a(b), 441a(g).

2. Section 106.2 is amended by revising paragraph (c)(5)(i) to read as follows:

§ 106.2 State allocation of expenditures incurred by authorized committees of Presidential primary candidates receiving matching funds.

* * * * *

(c) * * *

(5) * * *

(i) Exempt compliance costs are those legal and accounting compliance costs incurred solely to ensure compliance with 26 U.S.C. 9031 *et seq.*, 2 U.S.C. 431 *et seq.*, and 11 CFR chapter I, including the costs of preparing matching fund submissions, and the costs of producing, delivering and explaining computerized information and materials provided pursuant to 11 CFR 9033.12 and explaining the operation of the computer system's software. The costs of preparing matching fund submissions shall be limited to those functions not required for general contribution processing and shall include the costs associated with: Generating the matching funds submission list and the matching fund computer tape or other form of magnetic media for each submission, edits of the contributor data base that are related to preparing a matching fund submission, making photocopies of contributor checks, and seeking additional documentation from contributors for matching purposes. The costs associated with general contribution processing shall include those normally performed for fundraising purposes, or for compliance with the recordkeeping and reporting requirements of 11 CFR part 100 *et seq.*, such as data entry, batching contributions for deposit, and preparation of FEC reports.

* * * * *

PART 9003—ELIGIBILITY FOR PAYMENTS

3. The authority citation for part 9003 continues to read as follows:

Authority: 26 U.S.C. 9003 and 9009(b).

4. In § 9003.3, paragraph (a)(2)(i)(E) is revised, paragraph (a)(2)(i)(F) is redesignated as paragraph (a)(2)(i)(G), new paragraph (a)(2)(i)(F) is added, paragraphs (a)(2)(iii), (b)(6) and (c)(3)(iv) are revised, and paragraph (c)(3)(v) is added to read as follows:

§ 9003.3 Allowable contributions.

(a) * * *

(2) *Uses.* (i) * * *

(E) To defray the cost of soliciting contributions to the legal and accounting compliance fund,

(F) To defray the cost of producing, delivering and explaining the computerized information and materials provided pursuant to 11 CFR 9003.6 and explaining the operation of the computer system's software; and

* * * * *

(iii) Amounts paid from this account for the purposes permitted by 11 CFR 9003.3(a)(2)(i) (A) through (F) shall not be subject to the expenditure limits of 2 U.S.C. 441a(b) and 11 CFR 110.8. (See also 11 CFR 100.8(b)(15).) When the proceeds of loans made in accordance with 11 CFR 9003.3(a)(2)(i)(G) are expended on qualified campaign expenses, such expenditures shall count against the candidate's expenditure limit.

* * * * *

(b) * * *

(6) Any costs incurred for legal and accounting services which are provided solely to ensure compliance with 2 U.S.C. 431 *et seq.* and 26 U.S.C. 9001 *et seq.* shall not count against the candidate's expenditure limitation. Such costs include the cost of producing, delivering and explaining the computerized information and materials provided pursuant to 11 CFR 9003.6 and explaining the operation of the computer system's software. For purposes of this section, a candidate may exclude from the expenditure limitation an amount equal to 10% of the payroll (including payroll taxes) and overhead expenditures of his or her national campaign headquarters and state offices. In addition, a candidate may exclude from the expenditure limitation an amount equal to 70% of the costs (other than payroll) associated with computer services.

* * * * *

(c) * * *

(3) * * *

(iv) To defray the costs of legal and accounting services provided solely to ensure compliance with 2 U.S.C. 431 *et seq.* and 26 U.S.C. 9001 *et seq.*;

(v) To defray the cost of producing, delivering and explaining the computerized information and materials provided pursuant to 11 CFR 9003.6 and explaining the operation of the computer system's software.

* * * * *

5. Section 9003.6 is added to read as follows:

§ 9003.6 Production of computer information.

(a) *Categories of computerized information to be provided.* If the candidate or the candidate's authorized committee maintains or uses computerized information containing any of the categories of data listed in paragraphs (a)(1) through (a)(9) of this section, the committee shall provide computerized magnetic media, such as magnetic tapes or magnetic diskettes, containing the computerized information at the times specified in 11 CFR 9007.1(b)(1):

(1) Information required by law to be maintained regarding the committee's receipts or disbursements;

(2) Receipts by and disbursements from a legal and accounting compliance fund under 11 CFR 9003.3(a), including the allocation of payroll and overhead expenditures;

(3) Receipts and disbursements under 11 CFR 9003.3(b) or (c) to defray the costs of soliciting contributions or to defray the costs of legal and accounting services, including the allocation of payroll and overhead expenditures;

(4) Records relating to the costs of producing broadcast communications and purchasing airtime;

(5) Records used to prepare statements of net outstanding qualified campaign expenses;

(6) Records used to reconcile bank statements;

(7) Disbursements made and reimbursements received for the cost of transportation, ground services and facilities made available to media personnel, including records relating to how costs charged to media personnel were determined;

(8) Records relating to the acquisition, use and disposition of capital assets or other assets; and

(9) Any other information that may be used during the Commission's audit to review the committee's receipts, disbursements, loans, debts, obligations, bank reconciliations or statements of net outstanding qualified campaign expenses.

(b) *Organization of computerized information and technical specifications.* The computerized magnetic media shall be prepared and delivered at the committee's expense and shall conform to the technical specifications, including file requirements, described in the Federal Election Commission's Computerized Magnetic Media Requirements for Title 26 Candidates/Committees Receiving Federal Funding. The data contained in the computerized magnetic media provided to the Commission shall be organized in the order specified by the Computerized Magnetic Media Requirements.

(c) *Additional materials and assistance.* Upon request, the committee shall produce documentation explaining the computer system's software capabilities, such as user guides, technical manuals, formats, layouts and other materials for processing and analyzing the information requested.

Upon request, the committee shall also make available such personnel as are necessary to explain the operation of the computer system's software and the computerized information prepared or maintained by the committee.

PART 9007—EXAMINATIONS AND AUDITS; REPAYMENTS

6. The authority citation for part 9007 continues to read as follows:

Authority: 26 U.S.C. 9007 and 9009(b).

7. Section 9007.1 is amended by revising paragraph (b)(1) to read as follows:

§ 9007.1 Audits.

* * * * *

(b) *Conduct of fieldwork.* (1) If the candidate or the candidate's authorized committee does not maintain or use any computerized information containing the data listed in 11 CFR 9003.6, the Commission will give the candidate's authorized committee at least two weeks' notice of the Commission's intention to commence fieldwork on the audit and examination. The fieldwork shall be conducted at a site provided by the committee. If the candidate or the candidate's authorized committee maintains or uses computerized information containing any of the data listed in 11 CFR 9003.6, the Commission generally will request such information prior to commencement of audit fieldwork. Such request will be made in writing. The committee shall produce the computerized information no later than 15 calendar days after service of such request. Upon receipt of the computerized information requested and compliance with the technical specifications of 11 CFR 9003.6(b), the Commission will give the candidate's authorized committee at least two weeks' notice of the Commission's intention to commence fieldwork on the audit and examination. The fieldwork shall be conducted at a site provided by the committee. During or after audit fieldwork, the Commission may request additional or updated computerized information which expands the coverage dates of computerized information previously provided, and which may be used for purposes including, but not limited to, updating a statement of net outstanding qualified campaign expenses. During or after audit fieldwork, the Commission may also request additional computerized information which was created by or becomes available to the committee that is of assistance in the Commission's audit. The committee shall produce the additional or updated computerized information no later than 15 calendar days after service of the Commission's request.

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PART 9003—ELIGIBILITY FOR PAYMENTS

8. The authority citation for part 9033 continues to read as follows:

Authority: 26 U.S.C. 9033 and 9039(b).

9. New § 9033.12 is added to read as follows:

§ 9033.12 Production of computerized information.

(a) *Categories of computerized information to be provided.* If the candidate or the candidate's authorized committee maintains or uses computerized information containing any of the categories of data listed in paragraphs (a)(1) through (a)(9) of this section, the committee shall provide computerized magnetic media, such as magnetic tapes or magnetic diskettes, containing the computerized information at the times specified in 11 CFR 9038.1(b)(1):

(1) Information required by law to be maintained regarding the committee's receipts or disbursements;

(2) Records of allocations of expenditures to particular state expenditure limits and to the overall expenditure limit;

(3) Disbursements for exempt fundraising and exempt compliance cost, including the allocation of salaries and overhead expenditures;

(4) Records of allocations of expenditures for the purchase of broadcast media;

(5) Records used to prepare statements of net outstanding campaign obligations;

(6) Records used to reconcile bank statements;

(7) Disbursements made and reimbursements received for the cost of transportation, ground services and facilities made available to media personnel, including records relating to how costs charged to media personnel were determined;

(8) Records relating to the acquisition, use and disposition of capital assets or other assets; and

(9) Any other information that may be used during the Commission's audit to review the committee's receipts, disbursements, loans, debts, obligations, bank reconciliations or statements of net outstanding campaign obligations.

(b) *Organization of computerized information and technical specifications.* The computerized magnetic media shall be prepared and delivered at the committee's expense and shall conform to the technical specifications, including file requirements, described in the Federal Election Commission's Computerized Magnetic Media Requirements for Title 26 Candidates/Committees Receiving Federal Funding. The data contained in the computerized magnetic media provided to the Commission shall be organized in the order specified by the Computerized Magnetic Media Requirements.

(c) *Additional materials and assistance.* Upon request, the committee shall produce documentation explaining the computer system's software capabilities, such as user guides, technical manuals, formats, layouts and other materials for processing and analyzing the information requested. Upon request, the committee shall also make available such personnel as are necessary to explain the operation of the computer system's software and the computerized information prepared or maintained by the committee.

PART 9035—EXPENDITURE LIMITATIONS

10. The authority citation for part 9035 continues to read as follows:

Authority: 26 U.S.C. 9035 and 9039(b).

11. Section 9035.1 is amended by revising paragraph (c)(1) to read as follows:

§ 9035.1 Campaign expenditure limitation.

* * * * *

(c) * * *

(1) Exempt compliance costs are those legal and accounting compliance costs incurred solely to ensure compliance with 26 U.S.C. 9031 *et seq.*, 2 U.S.C. 431 *et seq.*, and 11 CFR chapter I, including the costs of preparing matching fund submissions, and the costs of producing, delivering and explaining computerized information and materials provided pursuant to 11 CFR 9033.12 and explaining the operation of the computer system's software. The costs of preparing matching fund submissions shall be limited to those functions not required for general contribution processing and shall include the costs associated with: Generating the matching funds submission list and in the matching fund computer tape or other form of magnetic media for each submission, edits of the contributor data base that are related to preparing a matching fund submission, making photocopies of contributor checks, and seeking additional documentation from contributors for matching purposes. The costs associated with general contribution processing shall include

those normally performed for fundraising purposes, or for compliance with the recordkeeping and reporting requirements of 11 CFR part 100 *et seq.*, such as data entry, batching contributions for deposit, and preparation of FEC reports.

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PART 9038—EXAMINATIONS AND AUDITS

12. The authority citation for part 9038 continues to read as follows:

Authority: 26 U.S.C. 9038 and 9039(b).

13. Section 9038.1 is amended by revising paragraph (b)(1) introductory text to read as follows:

§ 9038.1 Audit.

* * * * *

(b) *Conduct of fieldwork.* (1) If the candidate or the candidate's authorized committee does not maintain or use any computerized information containing the data listed in 11 CFR 9033.12, the Commission will give the candidate's authorized committee at least two weeks' notice of the Commission's intention to commence fieldwork on the audit and examination. The fieldwork shall be conducted at a site provided by the committee. If the candidate or the candidate's authorized committee maintains or uses computerized information containing any of the data listed in 11 CFR 9033.12, the Commission generally will request such information prior to commencement of audit fieldwork. Such request will be made in writing. The committee shall produce the computerized information no later than 15 calendar days after service of such request. Upon receipt of the computerized information requested and compliance with the technical specifications of 11 CFR 9033.12(b), the Commission will give the candidate's authorized committee at least two weeks' notice of the Commission's intention to commence fieldwork on the audit and examination. The fieldwork shall be conducted at a site provided by the committee. During or after audit fieldwork, the Commission may request additional or updated computerized information which expands the coverage dates of computerized information previously provided, and which may be used for purposes including, but not limited to, updating a statement of net outstanding campaign, obligations, or updating the amount chargeable to a state expenditure limit. During or after audit fieldwork, the Commission may also request additional computerized information which was created by or becomes available to the committee and that is of assistance in the Commission's audit. The committee shall produce the additional or updated computerized information no later than 15 calendar days after service of the Commission's request.

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Dated: June 22, 1990.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 90-14920 Filed 6-26-90; 8:45 am]

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Wednesday
June 27, 1990

Part VIII

Department of Health and Human Services

Office of Human Development Services

Availability of FY 1990 Funds and Request for Applications; Head Start Family Service Center Demonstration Projects; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement No. 13600-905]

Availability of FY 1990 Funds and Request for Applications; Head Start Family Service Center Demonstration Projects

AGENCY: Administration for Children, Youth and Families (ACYF), Office of Human Development Services (OHDS).

ACTION: Announcement of the availability of financial assistance and request for applications for Head Start Family Service Center Demonstration Projects.

SUMMARY: The Head Start Bureau of the Administration for Children, Youth and Families announces the availability of funds for competing Head Start Family Service Center Demonstration Projects.

The purpose of these projects is to demonstrate how Head Start programs can more effectively address the complex and inter-related problems which limit the capacity of many Head Start families to achieve self-sufficiency.

DATES: The closing date for receipt of applications is August 27, 1990.

ADDRESSES: Address applications to:.

OHDS/Grants and Contracts Management Division, Department of Health and Human Services, room 341.F2 Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Attn: William J. McCarron, HDS 90-ACYF-HS-Family Service Center.

FOR FURTHER INFORMATION CONTACT: Jim O'Brien (202) 245-0573 or Marlys Gustafson (202) 245-0579, Program Support Division, Head Start Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, DC 20013.

SUPPLEMENTARY INFORMATION: .

Part I. General Information

A. Description of the Head Start Program

Project Head Start began as a demonstration program providing comprehensive development services for low-income preschool children. Since its inception in 1965, Head Start has provided educational, social, medical, dental, nutrition and mental health services for over eleven million children and their families across the nation. The involvement of parents is an important aspect of every Head Start program.

Head Start is now a $1.4 billion program serving nearly half a million low-income children and their families in over 2,000 communities across the United States each year. Now celebrating a quarter century of services, Head Start is helping to break the cycle of poverty through family-oriented, comprehensive, and community-based programs which address development goals for children, employment and self-sufficiency goals for adults, and support for parents in their work and child-rearing roles.

Launched by the Office of Economic Opportunity, Head Start is now administered by the Administration for Children, Youth and Families (ACYF) in the Office of Human Development Services (OHDS), Department of Health and Human Services (DHHS). Operating grants are awarded by DHHS/OHDS Headquarters and Regional Offices. Locally, the program is administered by nearly 1,300 community-based non-profit grantee organizations and school systems.

The Head Start program is based on the premise that all children share certain needs, and that children of low-income families in particular can benefit from a comprehensive developmental program to meet those needs. Further, the program emphasizes that the child's entire family, which is perceived as being the principal influence on the child's development, must be a direct participant in the program. Grantees are allowed latitude in developing creative program designs so long as they adhere to the basic goals, objectives and standards of a comprehensive child development program and applicable law and regulations.

Purpose of this announcement: The projects to be funded under this announcement are intended to demonstrate how Head Start can work with other community agencies and organizations, both public and private, to effectively deal with the problems of substance abuse, illiteracy and unemployment among Head Start families. Anticipated results of these demonstrations include the design and testing of innovative approaches to identifying these problems; the motivation of family members to take constructive steps to help themselves; linking families with appropriate community services; and conducting follow-up activities to help support families as they work toward solving problems. Also anticipated is the development by local Head Start programs of new partnerships with other organizations—including the business and educational sectors—for the purposes of joint planning and action, coordination, and the targeting of resources on behalf of families with substance abuse, literacy or employability problems.

In funding projects under this announcement, ACYF intends to develop imaginative approaches to meeting family needs which are successful and well documented and which can be replicated by other Head Start programs across the country.

The purpose of the financial assistance to be made available under this announcement is to stimulate the development of practices or approaches that result in replicable strategies for more effectively supporting the attainment of self-sufficiency by Head Start families through collaborative efforts between Head Start programs and existing community programs which focus efforts upon the following critical problems:

- Reducing and preventing substance abuse;
- Improving the literacy skills of parents; and
- Increasing the employability of parents.

The grants to be awarded under this announcement are not to be used to supplant funding from other sources.

B. Problems To Be Addressed

Over the past several years there has been increasing public recognition of a set of often inter-related problems which significantly threaten the capacity of families to be self-sufficient. These problems include substance abuse, adult illiteracy, and chronic unemployment/underemployment. Chidren from low-income families which experience these problems are themselves at heightened risk of educational failure and social dysfunction as a result of these parental problems.

Programs such as Head Start, which have a goal of improving the developmental status of young children, are reporting increased difficulty in fulfilling their mission because of the disabling influences of these problems upon the families served. Head Start has acted on the principles that the child's development is best addressed through the family. The pervasiveness of the problems cited above challenges Head Start to demonstrate strategies which are more responsive to the present realities for its families.

Typically, Head Start programs assist parents experiencing the problems of substance abuse, illiteracy, or unemployment by referring them to a community resource which addresses the area of need. Information gathered from Head Start grantees indicates that this approach is insufficient for an increasing number of families. To effectively fulfill its goal of promoting

family self-sufficiency, Head Start programs must develop more intensive and proactive approaches to supporting families. A case-management approach may be required to identify specific needs and existing strengths of an individual family and to address existing barriers to the family's attainment of self-sufficiency. In addition, more active and collaborative relationships with community resources may be needed to ensure that their services are accessible to Head Start families.

1. Substance Abuse

Substance abuse has been identified by many Head Start programs as a significant obstacle in their efforts to help families become more self-sufficient and to effectively foster their child's development. It is estimated that at least 20 percent of the families in Head Start are affected by substance abuse problems.

In a recently completed study by the HHS Office of Inspector General, 116 randomly selected Head Start grantees identified substance abuse as one of the most common problems of dysfunctional families served by Head Start programs in both rural and urban areas.

Head Start program directors, social service staff, and teaching staff have described the negative impacts of substance abuse that they have witnessed:

- Increased family instability which reduces meaningful parent participation in the program, disrupts the child's attendance, and creates an environment for the child which is often chaotic and frightening.
- Increased stress and frustration on the part of service providers in dealing with families involved in substance abuse.
- An increase in the number of children who are born with medical/developmental problems associated with maternal substance abuse.
- Increased involvement of Head Start family members in criminal drug-related activities, often leading to family violence, parental incarceration, and the placement of children in foster care or with extended families.
- Neighborhoods in which Head Start programs are located, and in which their families live, that are so disrupted by drug-related crime that families and staff report a pervasive sense of fear.

2. Literacy Skills of Parents

There is a significant need for literacy development in Head Start families. Approximately half of all Head Start parents do not have a high school degree or General Education Development (GED) certificate. Reports from Head Start grantees which are involved in literacy programs for Head Start parents suggest that a large number of these parents have literacy skills which are below the level which would permit them to succeed in GED programs.

Low literacy skills and low levels of educational attainment reduce the employment prospects for Head Start parents and also impede their participation in the community at large, the Head Start program, and in the many situations in which the parent must act on the child's behalf (in obtaining appropriate health, social and educational services, for example).

Head Start recognizes the benefit of addressing the literacy skills of the parent when attempting to support the family in achieving greater self-sufficiency. Parents with functional literacy skills are better able to promote their children's attainment of literacy. A focus upon this problem is needed to interrupt the intergenerational cycle of illiteracy affecting many Head Start families.

3. Employability of Parents

There is increasing effort, primarily through welfare reform, to assist low-income parents in achieving greater economic well-being. A large proportion of Head Start parents would benefit from improved access to appropriate training and employment opportunities. Employment is critical to a family's ability to acquire the means to support the full development of their children.

Limited job skills and/or experience and unemployment affect a significant proportion of Head Start parents. Approximately 47 percent of Head Start families receive AFDC payments and 47 percent of the heads of households are unemployed. Unless these problems are addressed, it is unlikely that these families will enter the economic mainstream.

A major issue for Head Start is coordination with the States around the implementation of the Family Support Act of 1988, which was enacted to increase the employability of welfare recipients and to help them achieve self-sufficiency. This legislation includes a new Job Opportunity and Basic Skills Training (JOBS) program which must be implemented by the States over the next two years. Many Head Start parents will be required to participate in JOBS training and employment activities geared toward economic self-sufficiency.

A key provision of JOBS is the requirement for child care to support parent training and employment. States are specifically required by the JOBS legislation to coordinate with Head Start to insure that quality child care is available to JOBS participants and to families receiving transitional child care benefits, many of whom are eligible for Head Start services.

All of these problem areas are interrelated and complex and are likely to take different forms in different families. Taken individually, these problems can significantly limit the families' prospects for self-sufficiency and their capacity to fully meet the developmental needs of young children. When these problems occur in combination, as is often the case, effectively addressing them requires a more proactive and persistent response than is often undertaken by a Head Start program using existing Head Start models and practices of social services and parent involvement. Demonstrations are needed to explore how systemic changes in Head Start social services and parent involvement practices, combined with collaborative efforts involving other community-based agencies, can more effectively support Head Start families in achieving self-sufficiency.

C. Need for Coordination

Head Start programs can capitalize on their family-centered approach and their emphasis on parent involvement by collaborating with existing family service organizations in efforts designed to increase their effectiveness in helping multi-problem, low-income families. The advantages to such agencies of working through Head Start include recognition as a well-established community program, the opportunity it offers for parents to participate in training while their children are in Head Start, and the fact that Head Start personnel have a relationship based on trust with the families and other resource persons in the community.

Part II. Responsibilities of the Grantee

A. Roles of the Grantee

A principal role for the Head Start Family Service Center Demonstration Project grantees will be to demonstrate a model for Head Start family support which can effectively collaborate with community organizations to address significant problems impacting on the self-sufficiency of Head Start families. Collaboration between the Head Start program, State welfare agencies, substance abuse treatment and prevention programs, adult literacy and basic education programs, job training programs, and other programs is sought to improve Head Start's capacity to put in place more effective systems for addressing the identified priority problems of substance abuse, illiteracy, and unemployment/underemployment.

Head Start Family Service Center Demonstration Project grantees will be expected to engage in a variety of activities to address these problems. Suggested activities include, but are not limited to:

• Demonstrating practices which, by supporting the family, increase the likelihood that the problems of Head Start families in the three areas of focus will be reduced and/or ameliorated.

• Demonstrating a comprehensive family-centered approach which increases the effective utilization of community services to address priority needs.

All Head Start Family Service Center Demonstration Project grants will be administered by the Head Start Bureau in the Administration for Children, Youth, and Families (ACYF).

Gratees will be required to attend one two-day meeting in Washington, D.C. each year of the grant period for information-sharing with other grantees and the national Head Start office.

B. Specific Priorities

Grantees must propose a comprehensive model for Head Start family service and support which will have the capacity to address the needs of families in each of the three problem areas of chronic unemployment/underemployment, substance abuse, and adult illiteracy. The proposed model must be responsive to the individual needs of the families served and must effectively utilize and complement existing community services addressing these problems.

1. Increasing the Employability of Head Start Parents

To address the objective of increasing parents' employability, grantees must facilitate and enhance the coordination of the Head Start program with States' implementation of the Family Support Act of 1988 and with the State and local government agencies responsible for the management and administration of job training programs under the Job Training Partnership Act (JTPA). This coordination should occur through a variety of activities including, but not limited to:

• The development of partnerships with family assistance agencies, training institutions, and employers to provide appropriate training and employment opportunities for Head Start parents and to promote supportive programs which increase the likelihood that they will move along the continuum of education, training, part-time employment, and full-time employment. Coordination with the local Private Industry Councils (PICs) to promote the involvement of Head Start parents in local job training and employment programs is recommended. The PICs serve as key mechanisms for bringing representatives from various segments of the private sector into the active management of job training programs.

• The development of partnerships which provide supportive services, including full-day child-care, for Head Start parents who are engaged in employment programs such as JOBS. Partnerships might also address family support through counseling, organizing peer support groups, and job readiness training programs.

2. Reducing and Preventing Substance Abuse

Grantees may address substance abuse issues through a variety of activities, including, but not limited to:

• Providing a program of staff training and parent education/involvement on substance abuse prevention;

• Developing model approaches of coordination between Head Start and other community services for children who are drug-affected or drug-exposed and their families; and

• Developing or replicating approaches which Head Start grantees can use to support children and families of an adult in treatment for substance abuse.

The development of curricula for preschool children and families on substance abuse prevention will not be supported by this grant.

3. Improving the Literacy Skills of Parents

Head Start Family Service Center Demonstration Projects can support improvements in parents' literacy skills through a variety of activities, including, but not limited to:

• Building effective partnerships with public and private organizations addressing literacy (e.g., adult basic education, volunteer literacy programs, libraries, vocational training programs, family literacy programs, and public school programs) to improve the utilization of these resources by Head Start families; and

• Demonstrating to organizations addressing literacy that Head Start programs can be valued partners. Head Start programs have a history of innovation in working with low-income families who are most likely to need literacy development. Head Start's experience in promoting parent involvement and improving families' self-sufficiency can augment the effectiveness of a literacy project.

C. Preparing Project Proposals

A proposed project should reflect Head Start's philosophy and program goals, with clearly articulated objectives and activities which specifically address the needs of Head Start families.

Applicants must propose activities which would significantly impact on the three issues of focus described in this announcement. Applicants are especially reminded of Head Start's fundamental principle of serving the whole family as the key strategy for improving the developmental, social and economic conditions for disadvantaged children.

Applicants are expected to take a long-range, systemic, comprehensive and multi-disciplinary view in proposing the activities that would be carried out. Proposals must demonstrate familiarity with programs serving low-income children and their families, local needs and resources, successful collaborative efforts, and barriers to coordination. Applicants must articulate major issues facing Head Start families within their communities and discuss how the proposed project would support the program's goals and priorities for Head Start families.

Applicants must describe the expected impact of the project on families served in terms of specific and measurable outcomes. Significant partnerships with relevant public and private organizations, including those in the corporate sector, are strongly encouraged. A community-based advisory group would be a valuable asset in planning the demonstration proposal and in building community partnerships and information-sharing networks to support project implementation.

Applicants must describe the impact that the support activities will have upon increasing the effectiveness of existing community service programs in addressing the needs of Head Start families in each of the three areas of focus. An important expected outcome of project activities should be the sustained participation of Head Start parents in programs which address these priority areas.

The proposal must also describe plans for obtaining non-ACYF funding sources to address the project objectives after Federal funding of the demonstration ceases.

The proposal must clearly set forth the goals and specific objectives of the project. The application should also describe current activities and long-range goals for increasing the capacity of grantees to address the complex needs of Head Start parents and for the ongoing coordination of Head Start with other relevant programs and activities. Applicants are encouraged to propose the use of "state-of-the-art" technology to demonstrate effective and efficient approaches and methods.

The project objectives must be supported by a sound approach which details the magnitude and scope of activities to be undertaken and how they would be carried out to achieve

expected results. The proposal should include a detailed management plan for the work to be completed during each budget period which (a) Clearly addresses project goals; (b) links objectives and activities; and (c) can be accomplished within the proposed project period and budget. The management plan is expected to include charts showing timelines and levels of effort for each objective and activity as well as the specific staff who would be carrying out the work. The proposal should discuss relevant technical and operational issues, anticipate possible barriers to the achievement of project goals, and present a strategy for overcoming these barriers.

Applicants must demonstrate sufficient agency resources and staff competence to assure that project activities can be successfully carried out. Cooperating organizations or agencies, their contributions, and their strengths should be described. Letters of commitment should be included whenever possible. In addition, position descriptions and resumes of key personnel, including those of consultants and cooperating organizations, should be included in the proposal. Position descriptions should specifically describe the job as it relates to the proposed project, and resumes must indicate how the proposed staff are qualified to carry out the project activities. The project director is expected to demonstrate strong management experience and relevant technical expertise. Key individuals must be knowledgeable about the Head Start program and family support practice and theory.

The proposal must include a line-item budget for each budget period requested. The budget narrative should fully explain and justify the line items in the budget categories in Section B of the Form 242 Budget Information section. Sufficient detail should be included to facilitate the determination of the allowability and relevance of proposed costs to the project. The budget must be commensurate with the scope of the project and reasonable in relation to the work proposed.

Project proposals must discuss how how a Head Start program can, by application of current knowledge and best practices, reduce the incidence and negative effects of the three problems of focus on the families served by the project. There is also a need to determine, by sound program design and evaluation, the critical components and features of Family Service Center Demonstration practices which are most effective and replicable in a Head Start setting.

Applicants must provide a design for a high quality comprehensive evaluation of their project and must utilize a third party to conduct the evaluation. The evaluation design must be able to provide formative and summative information on the implementation of, and specific outcomes attributable to, the demonstration project.

The applicant is encouraged to consider linking with a college or university for the design and implementation of the evaluation plan. Applicants must include letters of commitment from and the vitae of proposed evaluators. The level of effort and corresponding budgeted expenditure for evaulation activities should be clearly identified.

In addition, successful applicants must agree to cooperate with any future evaluation of the Family Service Center Demonstration Projects if the Office of Human Development Services determines later that such an evaluation is desired.

The service models developed by these projects will enable ACYF to disseminate information and provide training/technical assistance to help other Head Start programs in their efforts to enhance family self-sufficiency. Each project should document its procedures and products in a manner which permits dissemination and replication, through the Head Start Bureau, of successful practices.

The applicant must propose a range of clearly described activities which explain how the Head Start families to be supported by the project will be identified, the anticipated number of families to participate and for how long, how the level of support will be tailored to fit the individual circumstances of families and communities, and how families' progress toward specific objectives will be monitored and evaluated. A plan for supporting some families for periods of time during which their child is no longer receiving Head Start services may be proposed. Such a plan, however, should specify the circumstances under which such extended support would be provided.

The application must include a description of the proposed roles of the applicant and the community-based collaborators in addressing identified needs. Persons should include support for the transition of the family from Head Start programs which are a part of the demonstration project to programs in the community at large.

Head Start training and technical assistance projects are not eligible to apply under this announcement. This includes projects which provide training and/or technical assistance (T/TA) to local Head Start programs ("third party T/TA"). However, the purchase of T/TA by a Head Start Family Service Center Demonstration Project grantee for its own or for its members' use (as in the case of a consortium) is acceptable when such T/TA is necessary to carry out project objectives.

ACYF will not fund core administrative functions or other activities that essentially support the applicant's ongoing administrative functions.

Part III. Evaluation Criteria

In considering how the applicant will carry out the responsibilities described in Part II of this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria:

1. Objectives and Need for Assistance (15 points)

How the applicant:

- Identifies any relevant economic, social, financial, institutional, or other problems requiring a solution; and demonstrates the need for the assistance and states the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant on the need for assistance may be used. Any relevant data based on planning studies should be included or footnoted.
- Identifies the precise location of the project and the area to be served by the proposed project. Maps and other graphic aids may be attached.

2. Results or Benefits Expected (15 points)

How the applicant identifies the results and benefits to be derived which are consistent with the objectives of the proposal and indicates the anticipated contribution to policy or practice. Proposed project costs must be reasonable in view of the expected results.

3. Approach (40 points)

How the applicant:

- Outlines a plan of action pertaining to the scope of work, and details how the proposed work will be accomplished for the project;
- Cites factors which might accelerate or decelerate the work and the reasons for taking this approach as opposed to others;
- Describes any unusual features of the project;
- Provides projections of the accomplishments to be achieved;
- Lists the activities to be carried out in chronological order to show a reasonable

schedule of accomplishments and their target dates;

• Identifies the kinds of data to be collected and maintained, and discusses the criteria to be used to evaluate the results and success of the project;

• Describes the evaluation methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved;

• Lists each organization, cooperator, consultant, or other key individual who will work on the project along with a short description of the nature of their effort or contribution.

4. Staff Backgrond and Organization's Experience (30 points)

How the applicant:

• Identifies the background of the project director/principal investigator and key project staff (including name, address, training, educational background, and other qualifying experience) and the experience of the organization to demonstrate the applicant's ability to effectively and efficiently administer this project;

• Describes the relationship between this project and other work planned, anticipated or underway by the applicant with Federal assistance.

Part IV. Eligibility, Funding, and Project Period

A. Eligible Applicants

Head Start grantees are eligible to compete for funding under this program announcement. Although private social service agencies, corporations, and other groups with interest and experience in addressing the problem areas of focus are not eligible applicants, Head Start grantees are encouraged to form joint-venture projects and to establish funding relationships with other partners in order to more comprehensively address the objectives of this announcement.

B. Available Funds

Approximately $2,500,000 of financial assistance is available in fiscal year 1990 under this program announcement. Approximately 15 grants will be funded under section 649 of the Head Start Act (42 U.S.C. 9844). Funding levels from $125,000 to $225,000 per project per year are anticipated and will be awarded for no more than three years.

Project budgets should include travel and per diem for the project director to attend one two-day national meeting of all Head Start Family Service Center Demonstration projects in Washington, DC during each year of the project and travel and per diem for the third party evaluator to attend this meeting in the first year of the project.

C. Project Period

Applicants may apply for a project of up to 36 months duration and are encouraged to develop multi-year projects. A multi-year project, one extending more than 12 months, affords grantees the opportunity to undertake a more complex and in-depth project than can be completed in one year. Applicants should note that a multi-year project is a single project that requires more than 12 months to complete. It is not a series of unrelated projects presented in chronological order over a three-year period.

Funding after the first budget period of a multi-year project is non-competitive. The budget period for each multi-year project will be 12 months. The non-competitive funding for the second and third years will depend on the grantee's satisfactory progress in achieving the objectives of the project according to the approved application, the availability of Federal funds, and compliance with applicable statutory, regulatory, and grant requirements.

D. Grantee Share of Project

Grantees must provide a non-Federal match, which may be cash or in-kind contributions, representing 25% of the Federal funds requested. Thus, for every four dollars of Federal funds requested, at least one dollar of non-Federal matching funds is required. For example, a project requesting $150,000 in Federal funds must provide a non-Federal match of at least $37,500. Applicants are urged to contribute non-Federal resources to the project which exceed the minimum requirements. Applicants are especially encouraged to form significant public/private funding partnerships which demonstrate a strong, multi-faceted commitment to the challenge of coordination within the community.

Part V. The Application Process

A. Availability of Forms

All of the forms and instructions needed for submitting an application under this announcement are included in Appendix II. Single sided copies of these forms should be reproduced and used to prepare the application package.

A complete application consists of:

(1) *Standard Form 424*: Application for Federal Assistance;

(2) *Standard Form 424A*: Budget Information;

(3) Assurances

(a) Standard Form 424B: Non-Construction Programs;

(b) Drug-Free Workplace Certification (this form does not have to be returned);

(c) Debarment Certification (this form does not have to be returned); and

(d) Lobbying Certification.

(4) *Program Narrative:* A narrative description of the project, organized under the headings which address the four evaluation criteria identified in Part III: (A) Objectives and Need for Assistance; (B) Results or Benefits Expected; (C) Approach; and (D) Staff Background and Organization's Experience.

The program narrative must be typed, double-spaced, on 8½ x 11 inch bond paper. All pages of the narrative (including charts, tables, and maps) must be sequentially numbered, beginning with the "Objective and Need for Assistance" section as page number one. The program narrative must not exceed 25 double-spaced pages.

(5) *Project Abstract:* A brief (approximately 100 word) description of the project, typed on 8½ x 11 inch bond paper.

(6) *Appendices/Attachments:* Letters of support, exhibits, and other supporting documents must not exceed twenty pages.

B. Application Submission

Each application must be signed by an official authorized to act on behalf of the applicant agency, organization, institution, or other entity and to assume responsibility for the obligations imposed by the terms and conditions of any grant awarded.

Applications must be prepared in accordance with the guidance provided in this announcement and the instructions in the attached application package.

One signed original and two copies of the application, including all attachments, are required. Completed applications must be sent to:

OHDS/Grants and Contracts Management Division, Room 341.F2, Hubert H. Humphrey Building, Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC 20201.

Attn: William J. McCarron, HDS 90-ACYF-HS—Family Service Center.

Hand delivered applications will be accepted at the OHDS Grants and Contracts Management Division office during normal working hours of 8:30 a.m. to 5:30 p.m. Monday through Friday.

C. Closing Date for the Submission of Applications

The closing date for receipt of applications under this announcement is August 27, 1990.

1. *Deadlines.* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date at the address specified in the application submission section of this announcement; or

b. Sent on or before the deadline date and received in time for the independent review under Chapter 1-62 of the HHS Grants Administration Manual. Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. *Late Applications.* Applications which do not meet the criteria in the above paragraphs are considered late applications. The granting agency will notify each late applicant that its application will not be considered in the current competition.

3. *Extension of Deadline.* The Administration for Children, Youth and Families may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc. or when there is widespread disruption of the mail. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

D. Screening of Applications

All applications will be initially screened to determine conformance with the following requirements:

(1) Deadline for submittal;

(2) Appropriate number of pages;

(3) Signature of authorizing official; and

(4) Federal funding requests not exceeding the established limitations.

These preliminary screening requirements will be rigorously enforced. Applications which do not meet these requirements will not be considered in the competition and the applicant will be so informed.

E. Application Consideration

Each application will be reviewed and scored against the criteria outlined in part III of this announcement and its responsiveness to the minimum requirements identified in part II. The review will be conducted in Washington, DC. Reviewers will be persons knowledgeable about issues relating to Head Start and efforts designed to promote the attainment of family self-sufficiency.

The results of the competitive review will be the primary factor taken into consideration by the Associate Commissioner, Head Start Bureau, who, in consultation with OHDS Regional Officials, will recommend to the Commissioner of ACYF programs to be funded. The Commissioner of ACYF will make the final selections. Applications may be funded in whole or in part. Consideration will also be given to ensuring that a variety of geographic areas are served, that projects with different auspices are selected, and that a variety of project designs and models are represented.

Successful applicants will be notified through the issuance of a Financial Assistance Award. The award will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the grant, the total project period, the budget period, and the amount of the non-Federal matching share. Organizations whose applications have been disapproved will be notified in writing by the Commissioner of the Administration for Children, Youth and Families.

F. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96-511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements and regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved by OMB.

G. Waiver of Executive Order 12372 Requirements for a 60-Day Comment Period for the States' Single Point of Contact (SPOC)

This program is covered under Executive Order (E.O) 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs. All States and territories except Alaska, Idaho, Kansas, Louisiana, Nebraska, Minnesota, Virginia, American Samoa, and Palau have elected to participate in the Exeuctive Order process and have established Single Point of Contact (SPOCs). Applicants from these nine areas need take no action regarding E.O. 12372. Applications for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372.

Other applicants should contact their SPOC as soon as possible to alert them of the prospective application and receive any necessary instructions. Applicants must submit any required material to the SPOC as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the SF 424, Block 16a. OHDS will notify the State of any applicant who fails to indicate SPOC contact (when required) on the application form.

HDS must obligate the funds for these awards by September 30, 1990. Therefore, the required 60-day comment period for State process review and recommendation has been reduced and will end on September 25, 1990, in order for HDS to receive, consider, and accommodate SPOC input.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule.

When comments are submitted directly to OHDS, they should be addressed to: Department of Health and Human Services, Office of Human Development Services, Grants and Contracts Management Division, Room 345-F Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. A list of the Single Points of Contact for each State and Territory is included in appendix I of this announcement.

(Catalog of Federal Domestic Assistance Program Number 13.600, Project Head Start)

Dated: May 29, 1990.

Wade F. Horn,

Commissioner, Administration for Children, Youth and Families.

Approved: May 31, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

Appendix I—State Single Points of Contact

Alabama

Mrs. Moncell Thornell,
State Single Point of Contact,
Alabama Department of Economic & Community Affairs,
3465 Norman Bridge Road,
Post Office Box 250347,
Montgomery, Alabama 36125-0347,
Telephone (205) 284-8905.

Arizona

Ms. Janice Dunn,
Arizona State Clearinghouse,

3800 N. Central Avenue,
Fourteenth Floor,
Phoenix, Arizona 85012,
Telephone (602) 280-1315.

Arkansas

Mr. Joseph Gillesbie,
Manager, State Clearinghouse,
Office of Intergovernmental Service,
Department of Finance and Administration,
P.O Box 3278,
Little Rock, Arkansas 72203,
Telephone (501) 371-1074.

California

Glenn Stober,
Grants Coordinator,
Office of Planning and Research,
1400 Tenth Street,
Sacramento, California 95814,
Telephone (916) 323-7480.

Colorado

State Single Point of Contact,
State Clearinghouse,
Division of Local Government,
1313 Sherman Street, Room 520,
Denver, Colorado 80203,
Telephone (303) 866-2156.

Connecticut

Under Secretary,
Attn. Intergovernmental Review coordinator
Comprehensive Planning Division,
Office of Policy and Management,
80 Washington Street,
Hartford, Connecticut 06106-4459,
Telephone (203) 566-3410.

Delaware

Francine Booth,
State Single Point of Contract,
Executive Department,
Collins Building,
Dover, Delaware 19903,
Telephone (302) 736-3326.

District of Columbia

Lovetta Davis,
State Single Point of Contact,
Executive Office of the Mayor,
Office of Intergovernmental Relations,
Room 416, District Building,
1350 Pennsylvania Avenue, NW.,
Washington, DC 20094,
Telephone (202) 727-9111

Florida

Karen McFarland,
Director, Florida State Clearinghouse,
Executive Office of the Governor,
Office of Planning and Budgeting,
The Capitol,
Tallahassee, Florida 32399-0001,
Telephone (904) 488-8114.

Georgia

Charles H. Badger,
Administrator,
Georgia State Clearinghouse,
270 Washington Street, SW.,
Atlanta, Georgia 30334,
Telephone (404) 656-3855

Hawaii

Mr Harold S. Masumoto,
Acting Director,
Office of State Planning,
Department of Planning and Economic Development,
Office of the Governor,
State Capitol,
Honolulu, Hawaii 96813,
Telephone (808) 548-3016 or 548-3085.

Illinois

Tom Berkshire,
State Single Point of Contact,
Office of the Governor,
State of Illinois,
Springfield, Illinois 62706,
Telephone (217) 782-8639.

Indiana

Frank Sullivan,
Budget Director,
State Budget Agency,
212 State House,
Indianapolis, Indiana 46204,
Telephone (317) 232-5610.

Iowa

Steven R. McCann,
Division for Community Progress,
Iowa Department of Economic Development,
200 East Grant Avenue,
Des Moines, Iowa 50309,
Telephone (515) 281-3725.

Kentucky

Robert Leonard, State Single Point of Contact, Kentucky State Clearinghouse, 2nd Floor Capital Plaza Tower, Frankfort, Kentucky 40601, Telephone (502) 564-2382.

Maine

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289-3261

Maryland

Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201-2365, Telephone (301) 225-4490.

Massachusetts

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities & Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727-7001.

Michigan

Milton O Waters, Director of Operations, Michigan Neighborhood Builders Alliance, Michigan Department of Commerce, Telephone (517) 373-7111.

Please direct correspondence to: Manager Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Builders Alliance, P.O Box 30242, Lansing, Michigan 48909, Telephone (517) 373-6223.

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, Office of Policy Development, 421 West Pascagoula Street, Jackson, Mississippi 39203, Telephone (601) 960-4280.

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751-4834.

Montana

Deborah Stanton, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of Budget and Program Planning, Capitol Station, Room 202—State Capitol, Helena, Montana 59620, Telephone (406) 444-5522.

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, NV 89710, ATTN: John B. Walker, Clearinghouse Coordinator

New Hampshire

Jeffery H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271-2155.

New Jersey

Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, Trenton, New Jersey 08625-0803, Telephone (609) 292-6613.

Please direct correspondence and questions to: Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625-0803, Telephone (609) 292-9025.

New Mexico

Dorothy E. (Duffy) Rodriquez, Deputy Director, State Budget Division, Department of Finance & Administration, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827-3640.

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474-1605.

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 116 W Jones Street, Raleigh, North Carolina 27611 Telephone (919) 733-0499.

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Telephone (701) 224-2094.

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th

Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698.

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73116, Telephone (405) 843–9770.

Oregon

Attn: Dolores Streeter, State Single Point of Contact, Intergovernmental Relations Division, State Clearinghouse, 155 Cottage Street, NE., Salem, Oregon 97310, Telephone (503) 373–1998.

Pennsylvania

Sandra Kline, Project Coordinator, Pennsylvania Intergovernmental Council, P.O Box 11880, Harrisburg, Pennsylvania 17108, Telephone (717) 783–3700.

Rhode Island

Daniel W Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907 Telephone (401) 277–2656.

Please direct correspondence and questions to: Review Coordinator Office of Strategic Planning.

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Officer of the Governor, 1205 Pendleton Street, Room 477 Columbia, South Carolina 29201, Telephone (803) 734–0493.

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773–3212.

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676.

Texas

Tom Adams, Governor's Office of Budget and Planning, P.O Box 12428, Austin, Texas 78711, Telephone (512) 463–1778.

Utah

Utah State Clearinghouse, Attn: Carolyn Wright, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 85114, Telephone (801) 538–1547

Vermont

Bernard D Johnson, Assistant Director Office of Policy Research & Coordinator Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326.

Washington

Marilyn Dawson, Washington Intergovernmental Review Process, Department of Community Development, 9th and Columbia Building, Mail Stop GH–51, Olympia, Washington 98504–4151, Telephone (206) 753–4978.

West Virginia

Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010.

Wisconsin

James R. Klauser, Secretary Wisconsin Department of Administration, 101 South Webster Street, GEF 2, P.O Box 7864, Madison, Wisconsin, 53707–7864, Telephone (608)–266–1741

Please direct correspondence and questions to: William C. Carey, Section Chief, Federal-State Relations Office, Wisconsin Department of Administration, (608)–266–0267

Wyoming

Ann Redman, State Single Point of Contract, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Telephone (307) 777–7574.

BILLING CODE 4130–01–M

APPENDIX II

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ . ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission

Item	Entry
1	Self-explanatory.
2	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3	State use only (if applicable).
4	If this application is to continue or revise an existing award, enter present Federal identifier number If for a new project, leave blank.
5	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: — "New" means a new assistance award — "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date — "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11	Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12	List only the largest political entities affected (e.g., State, counties, cities)
13.	Self-explanatory
14.	List the applicant's Congressional District and any District(s) affected by the program or project
15	Amount requested or to be contributed during the first funding/budget period by each contributor Value of in-kind contributions should be included on appropriate lines as applicable If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet For multiple program funding, use totals and show breakdown using same categories as item 15
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1 Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2 Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award, and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3 Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4 Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5 Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6 Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps, (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age, (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse, (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records, (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing, (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7 Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9 Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10 Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P L 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more

11 Will comply with environmental standards which may be prescribed pursuant to the following (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P L 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988, (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U S C §§ 1451 et seq), (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U S C § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P L 93-523), and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P L. 93-205)

12 Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13 Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U S C 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U S C 469a-1 et seq)

14 Will comply with P L 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance

15 Will comply with the Laboratory Animal Welfare Act of 1966 (P L. 89-544, as amended, 7 U S C 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U S.C §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17 Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

BILLING CODE 4130-01-C

Territories

Guam

Michael J Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472-2285.

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950.

Puerto Rico

Patria Custodio/Israel Soto Marreo, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P O Box 41119, San Juan, Puerto Rico 00940-9985, Telephone (809) 727-4444.

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 & 33 Kongens Gade, Charlotte Amalie, V.I. 00802, Telephone (809) 774-0750.

U.S. Department of Health and Human Services Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F The regulations, published in the January 31, 1989 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when HHS determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment.

The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabititation, and employee assistance programs; and,

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will

(1) Abide by the terms of the statement; and,

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency·

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicated or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction." provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit

Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure

Organization

Authorized Signature

Title Date

Note: If Disclosure Forms are required, please contact Mr William Sexton, Deputy Director, Grants and Contracts Management Division, Room 341F, HHH Building, 200 Independence Avenue, SW Washington, DC 20201–0001

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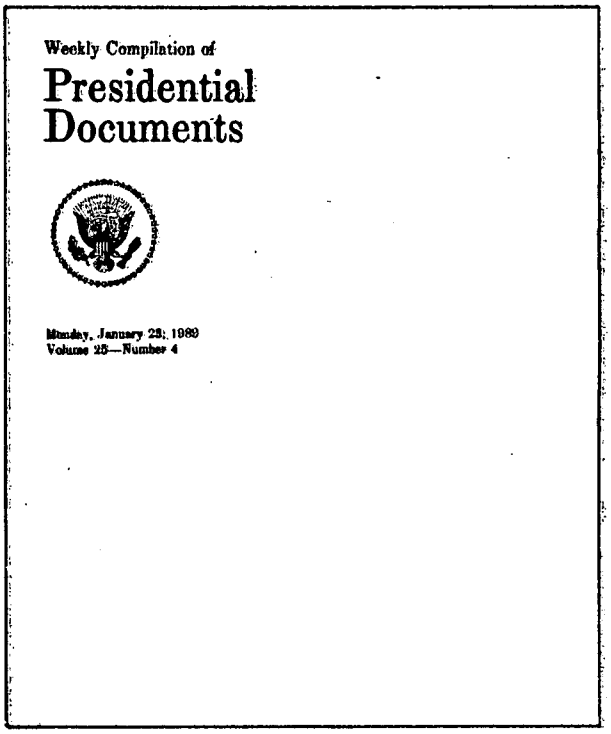

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