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CORRECTIONS

Beginning with today's **Federal Register**, editorial corrections of previously published documents and Code of Federal Regulations volumes appear in a separate section called "Corrections." The Corrections section follows the Sunshine Act Meetings section.

These corrections in the past have appeared in the Rules and Regulations, Proposed Rules, or Notices section of the issue depending on the classification of the document corrected. They are now appearing in a separate section because of new production procedures.

Agency-prepared corrections are issued as signed documents and will continue to appear in the appropriate section elsewhere in the issue.

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Presidential Documents

Title 3—

The President

Proclamation 5572 of November 17, 1986

National Diabetes Month, 1986

By the President of the United States of America

A Proclamation

Diabetes afflicts perhaps one in twenty Americans and is one of the leading causes of death in our Nation. Every year, diabetes takes more than 35,000 lives and contributes to the loss of another 95,000. Diabetes can cause complications such as blindness, heart or kidney disease, strokes, birth defects, and lower life expectancy. This disease also imposes a personal burden on those affected with it and on their families. Day-to-day treatment is a lifelong responsibility for those who have diabetes.

Despite diabetes' serious consequences, almost half of those with the disease are not aware they have it. Through greater public awareness of the frequency and the dangers of diabetes, we may reduce the incidence of complications from it—and even prevent most cases of noninsulin-dependent diabetes.

Thanks to advances in research in recent years, we understand more than ever before about diabetes and its mechanisms. This knowledge is providing the basis for trials of new diagnostic techniques and new treatments.

Through the shared dedication of the Federal government and of private organizations and individuals, we can continue to make progress in research and education efforts aimed at controlling and one day curing this disease. The goal of eliminating diabetes as a public health threat is an essential task and a realizable one.

To increase public awareness about the dangers of diabetes and the need for continued research and education efforts, the Congress, by Public Law 99–460, has designated the month of November 1986 as "National Diabetes Month" and authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of November 1986 as National Diabetes Month. I call upon all government agencies and the people of the United States to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of November, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 86–26243
Filed 11–18–86; 10:57 am]
Billing code 3195–01–M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 441

Table Grape Crop Insurance Regulations; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule, Correction.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) published a final rule in the **Federal Register** on Monday, October 27, 1986, at 51 FR 37892, revising and reissuing the Table Grape Crop Insurance Regulations (7 CFR Part 441). In that publication the provision for determining the yield guarantee contained words inconsistent with the intent of the specified crop years and some language was inadvertently omitted in the method used for determining the yield guarantee. This notice is published to correct that error.

ADDRESS: Written comments on this correction may be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: FR Doc. No. 86-24242, appearing at page 37892, is corrected as follows:

In the Table Grape Crop Insurance Policy in § 441.7(d)—

1. On page 37895, first column, first paragraph, fifth line, the sentence "The production report or assigned yield will be used to compute your production history for the purpose of determining your guarantee for the subsequent crop year." should read "The production report or assigned yield will be used to compute your production history for the purpose of determining your guarantee for the insured crop year."

2. On the same page, same column and paragraph, eighth line, the sentence "The yield assigned by us will be 75% of the yield assigned for the purpose of determining your guarantee for the present crop year." should read: "The yield assigned by us will be 75% of the yield assigned for the purpose of determining your guarantee for the prior crop year as adjusted for crop and vineyard conditions.

Done in Washington, DC on November 3, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-26088 Filed 11-18-86; 8:45 am]

BILLING CODE 3410-08-M

Commodity Credit Corporation

7 CFR Part 1477

Disaster Payment Program for 1986 Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: Public Law 99-500 provides for the implementation of a disaster payment program for eligible producers for losses of 1986 crop production due to drought, excessive heat, flood, hail or excessive moisture in 1986. Generally, to be eligible to receive a payment for a crop of wheat, feed grains, upland cotton, rice, soybeans, sugar beets, sugar cane, or peanuts ("program crops"), a producer must: be eligible to receive price support for such a crop; be in a county in which Farmers Home Administration ("FmHA") disaster emergency loans are available; and have suffered a loss of production of at least 50 percent for such crop. With respect to certain nonprogram crops, producers may qualify for such payments if they: Are in such FmHA designated counties; have suffered an economic emergency; and have a loss of production of at least 50 percent with respect to a nonprogram crop. This interim rule establishes the criteria to be used in making such disaster payments to eligible producers.

DATES: This interim rule shall become effective November 17, 1986.

Comments must be received on or before December 4, 1986, in order to be assured of consideration.

ADDRESSES: Send comments on this interim rule to Director, Emergency Operations and Livestock Programs Division, ASCS, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to this rule will be available for further inspection in Room 4095 South Building, USDA, between the hours of 8:15 am and 4:45 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jerry W. Newcomb, Director, Emergency Operations and Livestock Programs Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC Telephone: (202) 447-5621.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed in accordance with procedures implementing Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "major" since the program will have an annual effect on the economy exceeding $100 million.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since CCC is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject matter of this rule. Public Law 99-500 provides that the regulations implementing this program must be issued within 30 days of enactment of such act. Accordingly, this rule is effective upon filing with the Director, Office of the Federal Register.

An Environmental Evaluation with respect to the Disaster Payment Program has been completed. It has been determined that this action is not expected to have a significant impact on the quality of the human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

A Final Regulatory Impact Analysis of this regulation is being prepared. Copies

of the analysis will be available to the public by contacting Jerry W. Newcomb.

The title and number of the federal assistance program to which this notice applies are: Title—Commodity Loans and Purchases; Number 10.051, as found in the Catalog of Federal Domestic Assistance.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Background

Public Law 99–500 provides that disaster payments for prevented planting and low yield losses are to be made to producers of the 1986 crops of wheat, feed grains, upland cotton, rice, soybeans, sugar beets, sugar cane, and peanuts ("program crops") if the producer has suffered a loss of production for such a crop which is greater than the amount determined by multiplying 50 percent of the farm program payment yield by the disaster payment acreage. Such a producer must also be eligible to receive price support loans or purchases or other program benefits for the crop under sections 107D, 105C, 103A, 101A, 201(i), or 108B of the Agricultural Act of 1949 (7 U.S.C. 1445b–3, 1444b, 1444–1, 1446(i), or 1445c–2). Disaster payments are authorized only in a county in which producers are eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of drought, excessive heat, flood, hail or excessive moisture.

Public Law 99–500 also provides that disaster payments are to be made to producers of certain nonprogram crops who have suffered losses of production due to drought, excessive heat, flood, hail or excessive moisture and such losses have created an economic emergency for the producers. In addition, such producers must be in a county designated on or after July 1, 1986, to be eligible to receive FmHA disaster emergency loans. Nonprogram crops include crops insured by the Federal Crop Insurance Corporation ("FCIC") and commercial crops whether or not FCIC insurance is available for the crop.

Section 1477.3 sets forth the following definitions which are applicable to these disaster payments: "Actual production" means for the 1986 crop year the quantity of the crop actually harvested or which would have been harvested as determined by the county Agricultural Stabilization and Conservation ("ASC") committee in accordance with instructions issued by the Deputy Administrator, State and County Operations ("Deputy Administrator"), Agricultural Stabilization and Conservation Service ("ASCS").

A "program crop" is defined as a crop of wheat, feed grains, upland cotton, rice, soybeans, sugar beets, sugar cane, or peanuts.

A "nonprogram crop" is defined as a crop, other than a program crop, produced on a farm for sale or exchange on a commercial basis in a large enough quantity to have a substantial impact on the producer's income as determined by the county ASC committee in accordance with instructions issued by the Deputy Administrator.

The "disaster payment yield" used in determining the amount of a payment is defined as: (1) For wheat, feed grains, upland cotton, and rice, the 1986 farm program yield determined in accordance with Part 713 of this title; (2) for peanuts, the 1986 farm yield determined in accordance with Part 729 of this title; (3) for flue-cured tobacco, the 1986 farm yield determined in accordance with Part 725 of this title; (4) for fire-cured, dark air-cured, Virginia sun-cured, and cigar filler and binder tobacco, the 1986 farm normal yield determined in accordance with Part 724 of this title; (5) for burley tobacco, the 1986 farm yield determined in accordance with Part 726 of this title; and (6) for sugar beets, sugar cane, soybeans, kinds of tobacco not subject to marketing quotas, and nonprogram crops, the yield determined in accordance with instructions issued by the Deputy Administrator which shall be based on the highest actual crop yield per harvested acre for the 1983, 1984, or 1985, or, if the data to compute the actual yield does not exist or is not available to the producer, the average of the county average crop yield for the years 1981, 1982, 1983, 1984, and 1985 as determined by the National Agricultural Statistics Service ("NASS").

The acreage eligible for a disaster payment is defined as "disaster payment acreage". The disaster payment acreage: (1) For wheat, feed grains, upland cotton, and rice is the sum of the 1986 acreage planted for harvest, as determined by the county ASC committee in accordance with instructions issued by the Deputy Administrator, and the 1986 acreage which the county ASC committee determines the producer was prevented from planting to the crop or any other nonconserving crop but not to exceed the 1986 permitted acreage established for the crop; and (2) for other crops, the sum of the 1986 acreage planted for harvest as determined by the county ASC committee in accordance with instructions issued by the Deputy Administrator and the 1986 acreage which the county ASC committee determines the producer was prevented from planting to the crop or any nonconserving crop but not to exceed the sum of the acreage planted to the crop for harvest in 1985, or the corresponding year if there is an approved rotation for the crop on the farm, plus the prevented planted acreage in 1985.

In determining whether a producer of a nonprogram crop qualifies for such a payment, the producer must have suffered an "economic emergency" as the result of the aforementioned natural disasters. Although Pub. L. 99–500 does not define the term "economic emergency", CCC previously has defined this term for the purpose of establishing eligibility for disaster payments for certain program crops in 1983–1985, to mean a 60 percent loss of production of all crops produced on a farm. Since producers of nonprogram crops do not receive price support or related benefits (such as deficiency payments) with respect to nonprogram crops, it has been determined that a lesser level of a loss of production should be established as an eligibility requirement for receiving disaster payments under the provisions of Part 1477. Accordingly, for purposes of this program, an "economic emergency" is defined as a loss of 50 percent or more of the value of all crops produced on all farms in which they have an interest within the country.

A "producer" is defined as a person who, as owner, landlord, tenant, or sharecropper is entitled to share in the nonprogram crops available for marketing from the farm, or in the proceeds thereof.

Sections 1477.4 and 1477.6 provide that disaster payments will be made to eligible producers of program crops and nonprogram crops who are in eligible countries. With respect to producers of program crops, eligible counties are those countries in which producers may receive FmHA disaster emergency loans in accordance with section 321 of the Consolidated Farm and Rural Develoment Act (7 U.S.C. 1961) as the result of losses to 1986 crops due to drought, excessive heat, flood, hail, or excessive moisture. For nonprogram crops, eligible counties are those counties in which producers became eligible to receive such FmHA disasater emergency loans after July 1, 1986.

Section 1477.5 sets forth the criteria for establishing eligibility for receiving disaster payments with respect to

program crops. Section 1477.5 provides that disaster payments shall be made to producers of 1986 program crops for losses of production due to drought, excessive heat, flood, hail or excessive moisture. The loss of production is the difference between: (1) The quantity determined by multiplying the farm program payment yield established for the crop by 50 percent by the disaster payment acreage, and (2) the 1986 actual production of the crop. The amount of the disaster payment is determined by multiplying such loss of production by the disaster payment rate. The disaster payment rate is the basic county price support loan rate established for the crop, except that such rates are $18 per ton for sugar beets, $17 per ton for sugar cane, $607.47 per ton for quota peanuts, and $149.75 per ton for additional peanuts. Such producers must be eligible to receive price support for such crops in accordance with the Agricultural Act of 1949, as amended, and must submit a report of production and disposition for each program crop for which a payment is requested. The county ASC committee will determine whether the operator and other producers on a farm were prevented from planting an eligible commodity or any nonconserving crop or that the production of an eligible commodity on the disaster payment acreage resulted in a low yield of such commodity.

Section 1477.7 sets forth the criteria to be used in making disaster payments for nonprogram crops. In making disaster payments for nonprogram crops due to prevented planting and/or low yields, the producer must be a producer of nonprogram crops and must be eligible for a payment only as the result of an economic emergency. This rule takes into account the entire farming operations within the county of the producer who is applying for a disaster payment based on losses to nonprogram crops. Therefore, nonprogram crop producers shall report the production and disposition of all crops produced in 1986 on all farms in which they have an interest within the county.

If a producer has suffered an economic emergency, the producer may receive a disaster payment for the loss of production of each nonprogram crop produced on the farm. Section 1477.7 further provides that a loss of production eligible for payment shall be only that quantity of nonprogram crops the county ASC committee has determined that the eligible producer did not harvest due to a reduced yield or the producer was prevented from planting to the nonprogram crop or any nonconserving crops. Disaster payments for each nonprogram crop shall be made on the loss of production in 1986. The loss of production is the difference between: (1) Quantity determined by multiplying 50 percent by the disaster payment yield by the disaster payment acreage, and (2) the 1986 actual production of the crop. The disaster payment computation for each such crop shall be the result of multiplying such loss of production times the seasonal average market prices for the commodity as determined by the Deputy Administrator.

Section 1477.10 provides that the producer must provide the approving official a report of acreage, production, and disposition of all program and nonprogram crops produced in a county in order to determine that the producer is eligible for a disaster payment.

Section 1477.11 sets forth the limitations on the maximum amount of disaster payments which may be received by a person under the provisions of this interim rule. For purposes of determining a "person", the regulations set forth in Part 795 of this title shall be applicable.

Payments made available to each eligible producer in accordance with this program shall not exceed $100,000 for nonprogram crops and $100,000 for program crops. Disaster payments made in accordance with the program authorized by this rule are contingent upon the availability of funds to the CCC to make such payments. If funds made available by Pub. L. 99–500 are insufficient to make the maximum allowable payment to all eligible producers, § 1477.9 provides that payments made to eligible producers may be reduced proportionately according to a calculable factor.

Public Law 99–500 also provides that payments determined with respect to any producer with crop insurance shall be reduced to the extent the amount determined by adding the total amount of the disaster payment received for a program crop and the total amount of crop insurance indemnity payments (gross payment less premium paid) received for such crop exceeds the amount determined by multiplying the farm program payment yield by the eligible acreage by the payment rate for the commodity. In order to provide equitable treatment to nonprogram and program crop producers, § 1477.11 provides that this same limitation will apply to all crops.

List of Subjects in 7 CFR Part 1477

Crop insurance, Indemnity payments.

Interim Rule

Accordingly, a new Part 1477 is added to Chapter XIV of Title 7 of the Code of Federal Regulations as follows:

PART 1477—DISASTER PAYMENT PROGRAM FOR 1986 CROPS

Sec.

1477.1 General statement.
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Authority: Pub. L. 99–500.

§ 1477.1 General statement.

This part implements a Disaster Payment Program for the 1986 crop year. The purpose of the program is to make disaster payments to producers who have suffered a loss of production of 1986 crops due to drought, excessive heat, flood, hail or excessive moisture.

§ 1477.2 Administration.

(a) The program will be administered under the general supervision of the Executive Vice President, Commodity Credit Corporation ("CCC"), and shall be carried out in the field by State and county Agricultural Stabilization and Conservation committees ("State and county committees").

(b) State and county committees, and representatives and employees thereof, do not have authority to modify or waive any of the provisions of this part, as amended or supplemented.

(c) The State committee shall take any action required by this part which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with this part, or

(2) Require a county committee to withhold taking any action which is not in accordance with this part.

(d) No delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

§ 1477.3 Definitions.

In determining the meanings of the provisions of this part, unless the context indicates otherwise, words imparting the singular include and apply to several persons or things, words, imparting the plural include the singular, words imparting masculine gender include the feminine as well, and words used in the present tense include the past and future as well as the present. The following terms shall have the following meanings and all other words and phrases shall have the meanings assigned to them in the regulations governing reconstitution of farms in Part 719 of this title or in the regulations applicable to the production adjustment programs for feed grain, rice, upland and extra long staple cotton, wheat and related programs set forth in Part 713 of this title:

(a) "Actual production" means the quantity of the crop actually harvested or which could have been harvested as determined by the county committee in accordance with instructions issued by the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service ("Deputy Administrator").

(b) "Program crop" means a crop of wheat, feed grains, upland cotton, rice, soybeans, sugar beets, sugar cane or peanuts.

(c) "Nonprogram crop" means a crop, other than a program crop produced on a farm for sale or exchange on a commercial basis in a large enough quantity to have a substantial impact on the producer's income, as determined by the county committee in accordance with instructions issued by the Deputy Administrator.

(d) "Disaster payment yield" means: (1) For wheat, feed grain, upland cotton, extra long staple cotton, and rice, the 1986 farm program payment yield determined in accordance with Part 713 of this title.

(2) For peanuts, the 1986 farm yield determined in accordance with Part 729 of this title.

(3) For flue-cured tobacco, the 1986 farm yield determined in accordance with Part 725 of this title.

(4) For fire-cured, dark air-cured, Virginia sun-cured, and cigar filler and binder tobacco, the 1986 farm normal yield determined in accordance with Part 724 of this title.

(5) For burley tobacco, the 1986 farm yield determined in accordance with Part 726 of this title.

(6) For sugar beets, sugar cane, soybeans, and kinds of tobacco not subject to marketing quotas, the yield determined in accordance with instructions issued by the Deputy Administrator which shall be the highest actual crop yield per harvested acre for the years 1983, 1984, or 1985 or, if the data to compute the actual yield does not exist or is not available to the producer, the average of the county average corp yields for the years 1981, 1982, 1983, 1984, and 1985 as determined by the National Agricultural Statistics Service ("NASS").

(7) For other crops, the yield determined in accordance with instructions issued by the Deputy Administrator which shall be the highest actual crop yield per harvested acre for the years 1983, 1984, or 1985, or, if the data to compute the actual yield does not exist or is not available to the producer, the average of the county average crop yields for the years 1981, 1982, 1983, 1984, and 1985 as determined by the NASS.

(e) "Disaster payment acreage" means: (1) For wheat, feed grains, upland cotton, extra long staple cotton, and rice, the sum of the 1986 acreage planted for harvest, as determined by the county committee in accordance with instructions issued by the Deputy Administrator, and the 1986 acreage which the county committee determines the producer was prevented from planting to the crop or any other nonconserving crop. Such sum shall not exceed the 1986 permitted acreage for the crop.

(2) For other crops, the sum of the 1986 acreage planted for harvest, as determined by the county committee in accordance with instructions issued by the Deputy Administrator, and the 1986 acreage which the county committee determines the producer was prevented from planting to the crop or any other nonconserving crop. Such sum shall not exceed the sum of the acreage planted to the crop for harvest in 1985 (or the corresponding year if there is an approved rotation for the crop on the farm) plus the prevented planted acreage in 1985.

(f) "Economic emergency" means a loss of 50 percent or more of the value of all crops produced by a producer on all farms in which the producer has an interest within a county.

(g) "Producer" means, with respect to those crops for which an application for a disaster payment has been made, under this part, a person who, as owner, landlord, tenant, or sharecropper is entitled to share in such crops available for marketing from the farm or in the proceeds thereof.

§ 1477.4 Availability of disaster payments for program crops.

Disaster payments will only be made to eligible producers in a county in which producers are eligible to receive disaster emergency loans in accordance with section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as the result of drought, excessive heat, flood, hail or excessive moisture which occurred in 1986.

§ 1477.5 Disaster payments for program crops.

(a) *Eligibility for disaster payments.* Disaster payments for prevented planting and low yield losses are authorized to be made to producers of 1986 program crops if:

(1) The producer is eligible to receive price support loans or purchases or other program benefits under sections 107D, 105C, 103A, 101A, 201(i) or 108B of the Agricultural Act of 1949 (7 U.S.C. 1445b–3, 1444b, 1444–1, 1444–1, 1446(i) or 1445c–2);

(2) The operator submits an Application for Disaster Credit ("Form ASCA–574"), in accordance with instructions issued by the Deputy Administrator;

(3) The operator submits a report of production and disposition in accordance with § 1477.10; and

(4) The county committee determines that because of drought, excessive heat, flood, hail, or excessive moisture, the producers on the farm were:

(i) Prevented from planting an eligible commodity or other nonconserving crop, or

(ii) That the production of an eligible commodity on an acreage resulted in a low yield of such commodity, as determined in accordance with instructions issued bythe Deputy Administrator.

(b) *Loss of production.*

(1) The loss of production eligible for payment shall be only that quantity of a program crop on a farm that eligible producers on a farm did not harvest due to a reduced yield or were prevented from planting to such crop or other nonconserving crops as result of disaster conditions. Such loss of production for a crop shall be the difference between:

(i) The result determined by multiplying 50 percent of the disaster payment yield times the disaster payment acreage, and

(ii) the actual production of the crop on the farm if such quantity is less than the quantity determined in accordance with paragraph (b)(1)(i) of this section.

(c) *Payment computation.* The disaster payment for each crop shall be the result of multiplying the loss of production as determined in accordance with paragraph (b), times the 1986 basic county price support loan rate for the applicable commodity, except for sugar beets, sugar cane, and peanuts. The payment rate for sugar beets shall be $18 per ton, and the payment rate for sugar cane shall be $17 per ton. The payment rate for quota peanuts shall be $607.47 per ton and the payment rate for additional peanuts shall be $149.75 per ton.

(d) *Division of payments.* Each producer's share of a disaster payment shall be based on the producer's share of the crop or proceeds thereof or, if no crop was produced, the share which the producer would have otherwise received had the crop been produced.

§ 1477.6 Availability of disaster payments (for nonprogram crops) in a county.

Disaster payments will be made to eligible producers of nonprogram crops in a county in which producers became eligible to receive disaster emergency loans after July 1, 1986, in accordance with section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as the result of drought, excessive heat, flood, hail, or excessive moisture.

§ 1477.7 Disaster payments for nonprogram crops.

(a) *Eligibility for Disaster Payments.* Disaster payments for prevented planting and low yield losses are authorized to be made to producers of 1986 nonprogram crops only if, in accordance with instructions issued by the Deputy Administrator:

(1) The producer suffers an economic emergency due to a loss of production of all crops grown on all farms in which the producer has an interest within the county because of drought, excessive heat, flood, hail, or excessive moisture;

(2) The producer submits a Form ASCS–574;

(3) The producer submits a report of production and disposition in accordance with § 1477.10 for all nonprogram crops grown on all farms in which the producer has an interest within the county; and

(4) The county committee determines that the producer was prevented from planting nonprogram crops or other nonconserving crops on all farms in the county in which the producer has an interest within the county or that the production of nonprogram crops result in a low yield of such commodity because of drought, excessive heat, flood, hail, or excessive moisture which occurred in 1986.

(b) *Loss of production.* The loss of production eligible for payment shall be only that quantity of nonprogram crops the county committee has determined that eligible producers did not harvest due to reduced yield or were prevented from planting to such commodity or other nonconserving crops on all farms in which the producer has an interest within the county. Such loss of production shall be the difference between:

(1) The result determined by multiplying 50 percent times the established disaster payment yield times the disaster payment acreage, and

(2) The actual 1986 production of such crop, if such quantity is less than the quantity determined in accordance with paragraph (b) (1) of this section.

(c) *Payment computation.* The disaster payment for each crop shall be the result of multiplying the loss of production as determined in accordance with paragraph (a) of this section, times the average market price received by producers of such crops. Such market price shall be the price that has been established for such crop by the Farmers Home Administration for use in making determinations with respect to disaster emergency loan eligibility or, if such price is not available, a price determined in accordance with instructions issued by the Deputy Administrator.

(d) *Division of Payments.* Each producer's share of a disaster payment shall be based on the producer's share of the crop or proceeds thereof or, if no crop was produced, the share which the producer would have otherwise received had the crop been produced.

§ 1477.8 Filing application for payment.

(a) *Place of filing.* Applications for payment shall be filed by the applicant with the county ASCS office serving the county where the headquarters of the producer's farm is located. If the producer has more than one farm, with headquarters in more than one county, separate applications for payments shall be filed with the county ASCS office serving each such headquarters with respect to only the crops produced on each such farm, except that if the producer sells the entire crop in a single sale or if the entire crop is sold for the producer's account by one marketing agency, the producer may file the application(s) for payment in any one such county ASCS office. In the event all business transactions are conducted from the producer's residence or office and the farm has no other headquarters, the office or residence may be considered to be the farm headquarters.

(b) *Time of filing.* An application for payment shall be filed after the later of January 11, 1987, or the date that the producer's eligibility has been established in accordance with §§ 1477.5(a) and 1477.7(a), but before the close of business on January 30, 1987. If an application is filed by mail, it must be received by the county ASCS office by January 30, 1987.

§ 1477.9 Availability of funds.

Disaster payments will be contingent upon the availability of funds to CCC to make such payments. To the extent that funds authorized are insufficient to make the maximum allowable payment to all eligible producers, payments may be made to eligible producers proportionately according to a factor.

§ 1477.10 Report of acreage, production, disposition, and indemnity payments.

(a)(1) Producers shall report, in accordance with instructions issued by the Deputy Administrator, the production and disposition of all program and nonprogram crops produced in 1986 on all farms in which the producer has an interest within a county if an application for a disaster payment is filed with respect to any such farm. If the producer files such an application for nonprogram crops, such report shall include the production and disposition of all crops produced in 1986 on such farms.

(2) If there has been a disposition of crop production through commercial channels, the producer must furnish documentary evidence of such disposition in order to verify the information provided on the report. Acceptable evidence shall include but is not limited to such items as the original or a copy of commercial receipts, gin records, CCC loan documents, settlement sheets, warehouse ledger sheets, elevator receipts or load summaries.

(3) If there has been disposition of crop production other than through commercial channels, the producer must furnish such documentary evidence as the county committee determines to be necessary in order to verify the information provided by the producer. If the producer utilized any of the crops produced on the farm as feed, the producer must provide the number and type of livestock fed, the duration of the feeding period, the type of feed, and other documentation requested by the

county committee to substantiate the production on the farm in 1986.

(b) Producers of soybeans, peanuts, sugar beets, sugar cane, and nonprogram crops must submit evidence satisfactory to the county committee of the acreage planted for harvest in 1985 together with any acreage which was prevented from being planted to the crop or to other nonconserving crops in 1985. Such evidence may include, but is not limited to, such items as commercial contracts which specify acreages planted to the crop and insurance claim forms.

(c) Producers who have purchased crop insurance with respect to a crop for which a disaster payment is made must present evidence of the total amount of indemnity payments received (gross indemnity less premium paid) for each such crop in accordance with instructions issued by the Deputy Administrator.

§ 1477.11 Payment limitations.

(a) Disaster payments made to eligible producers shall be reduced as provided in this section from purposes of making such payments, the term "producer" shall be considered to mean the term "person", as defined in Part 795 of this title. Such payments shall be reduced:

(1) For each crop of eligible commodities produced on a farm, by the amount by which the sum of the computed disaster payment and the total amount of crop insurance indemnity payments (gross indemnity less premium paid) received by the producer for the loss of production for each crop of eligible commodities on the farm exceeds:

(i) 100 percent of: (A) The applicable basic county price support loan rate established for program crops or; (B) the payment rate as established in this part for nonprogram crops, times

(ii) The disaster payment yield times the disaster payment acreage.

(2) For each program crop produced on a farm, by the amount by which the sum of the computed disaster payment and the total amount of price support loans and purchases which are made with respect to such crop exceeds the amount determined by multiplying:

(i) 100 percent of the applicable basic county price support loan rate established for such crop, times

(ii) The disaster payment yield, times

(iii) The disaster payments acreage.

(3) By the amount of any prevented planted deficiency payments made for a crop of a commodity.

(b) For each producer, the sum of all payments made with respect to all program crops shall not exceed $100,000.

(c) For each producer, the sum of all disaster payments made with respect to all nonprogram crops shall not exceed $100,000.

(d) If there is an undermarketing of quota peanuts from a farm for the 1986 crop and a disaster payment has been made with respect to such undermarketings, any subsequent quota established for such farm shall be reduced by such quantity of undermarketings.

(e) For purposes of determining the payment limitations imposed by this section, disaster payments shall be attributed to each producer on the farm according to the producer's share in the crop as determined in accordance with §§ 1477.5(d) and 1477.6(c). The reduction of any producer's disaster payment shall not increase the disaster payment made to any other producer on the farm.

§ 1477.12 Payments.

Any disaster payments made in accordance with this part shall be made within 45 days after an application for payment is made to the county ASCS office and shall be made in the form of commodity certificates issued in accordance with Part 770 of this title.

§ 1477.13 Misrepresentation, scheme and device, and fraud.

(a) If CCC determines that any producer has erroneously represented any fact or has adopted, participated in, or benefited from, any scheme or device which has the effect of, or is designed to, defeat the purpose of this part, such producer shall not be eligible for disaster payments under this part and all such payments previously made to any such producer shall be refunded to CCC. The amount paid to CCC shall include any interest and other amounts determined in accordance with this part.

(b) If any misrepresentation, scheme or device or practice has been employed for the purpose of causing CCC to make a payment which CCC under this part otherwise would not make, all amounts paid by CCC to any such producer shall be refunded to CCC together with interest and other amounts determined in accordance with this part, and no further disaster payments shall be made to such producer by CCC.

(c) If the county committee determines that any producer has adopted or participated in any practice which tends to defeat the purpose of the program established in accordance with this part, the county committee shall withhold or require to be refunded all or part of the payments which otherwise would be due the producer under this part.

§ 1477.14 Refunds to CCC.

(a) In the event that there is a failure to comply with any term, requirement, or condition for payment made in accordance with this part, all such payments made to the producer shall be refunded to CCC, together with interest.

(b) Interest shall be charged with respect to any refund which is determined to be due CCC at the rate of interest which CCC is required to pay for its borrowings from the United States Treasury as of the date of the disbursement by CCC of the monies to be refunded. Interest shall accrue from the date of such disbursement by CCC. Upon the sending of the notification of the debt by CCC to the producer, the account shall bear late payment charges to be assessed in accordance with the provisions of, and subject to the rates prescribed in, Part 1403 of this title. If, for any reason, no late payment charges may be assessed with respect to such account under the provisions of Part 1403 of this title, additional charges on the account will accrue at the rate equal to the current rate for CCC borrowings from the United States Treasury plus three percent per annum.

(c) Producers must refund to CCC any excess payments made by CCC.

(d) In the event that the loss of production was established as a result of erroneous information provided by any person to the county ASCS office or was erroneously computed by such office, the loss of production shall be recomputed and the payment due shall be corrected as necessary. Any refund of payments which are determined to be required as a result of such recomputation shall be remitted to CCC.

§ 1477.15 Cumulative liability.

The liability of any producer for any payment or refund which is determined in accordance with this part to be due to CCC shall be in addition to any other liability of such producer under any civil or criminal fraud statute or any other statute or provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729.

§ 1477.16 Appeals.

Reconsideration and review of all determinations made in accordance with this part shall be made in accordance with Part 780 of this title.

§ 1477.17 Liens.

Any payment which is due any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, and the proceeds,

thereof, which may be asserted by any creditor, except agencies of the United States Government.

§ 1477.18 Other regulations.

The following regulations and amendments thereto shall also be applicable to this part:

(a) *7 CFR Part 13*—Setoffs and Withholdings;

(b) *7 CFR Part 707*—Payments Due Persons Who Have Died, Disappeared or Have Been Declared Incompetent;

(c) *7 CFR Part 713*—Feed grain, Rice, Upland and Extra Long Staple Cotton, and Wheat;

(d) *7 CFR Part 719*—Reconstitution of Farms, Allotments, Normal Crop Acreage and Preceding Year Planted Acreage;

(e) *7 CFR Part 770*—Commodity Certificates, In-Kind Payments, and Other Forms of Payments;

(f) *7 CFR Part 780*—Appeal Regulations;

(g) *7 CFR Part 790*—Incomplete Performance Based Upon Action or Advice of an Authorized Representative of the Secretary;

(h) *7 CFR Part 795*—Payment Limitation;

(i) *7 CFR Part 796*—Denial of Program Eligibility for Control Substance Violation;

(j) *7 CFR Part 1403*—Interest on Delinquent Debts;

(k) *7 CFR Part 12*—Highly Erodible Land and Wetland Conservation.

§ 1477.19 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements of this part shall be submitted to the Office of Management and Budget (OMB) for purposes of the Paperwork Reduction Act and it is anticipated that an OMB Number will be assigned.

Signed at Washington, DC on November 13, 1986.

Peter C. Myers,

Acting Secretary.

[FR Doc. 86-26134 Filed 11-17-86; 10:37 am]

BILLING CODE 3410-05-M

FEDERAL RESERVE SYSTEM

12 CFR Part 227

[Reg. AA; Docket No. R-0570]

Unfair or Deceptive Acts or Practices; Order Granting Partial Exemption to the State of Wisconsin From the Credit Practice Rule

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Order.

SUMMARY: The Board has determined that the exemption from the Credit Practices Rule, Subpart B of Regulation AA, requested by the state of Wisconsin should be granted in part.

EFFECTIVE DATE: November 20, 1986.

FOR FURTHER INFORMATION CONTACT: Adrienne D. Hurt, Susan Kraeger, or Heather Hansche, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551 at (202) 452-3867 or (202) 452-2412; or Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

(1) *Background*

In April 1985 the Board adopted its Credit Practices Rule, 12 CFR Part 227 (50 FR 16695), thereby amending its Regulation AA (unfair or deceptive Acts or Practices). The Board's rule, which became effective on January 1, 1986, followed the adoption by the Federal Trade Commission (FTC) of its Credit Practices Rule in March 1984 (49 FR 7740), effective March 1, 1985.[1] The Board's rule applies to all banks and their subsidiaries

The Credit Practices Rule prohibits banks from entering into any consumer credit obligation that contains a confession of judgment clause, a waiver of exemption, certain types of wage assignments, or a nonpossessory, nonchase money security interest in household goods. The rule prohibits the enforcement of these provisions in a consumer credit obligation chased by a bank.

The rule also prohibited a practice commonly referred to as "pyramiding" of late charges. Under the late charges provision, it is an unfair practice for a bank to assess multiple late charges based on a single delinquent payment that is subsequently paid. In addition, the rule prohibits a bank from misrepresenting a consigner's liability and requires the bank to give a cosigner, prior to becoming obligated in connection with a consumer credit transaction, a disclosure notice that explains the nature of the cosigner's contractual obligations and liability.

Compliance with the provisions of the Board's Credit Practices Rule is provided through administrative enforcement (including compliance examinations and investigations). Administrative enforcement of the rule for banks may involve actions under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), including the issuance of cease and desist orders and the imposition of penalties of up to $1,000 per day for violation of an order. Staff guidelines—in question and answer format—designed to aid banks in complying with the Credit Practices Rule were issued in November 1985 (50 FR 47036).

Section 227.16 of the Credit Practices Rule provides that if a State applies for an exemption from a provision of the rule, an exemption may be granted if the Board determines that (i) there is a State requirement or prohibition in effect that applies to any transaction to which a provision of the Credit Practices Rule applies; and (ii) the State requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by the rule's provision. If the Board makes such a determination, the prohibition or requirement in the Board's rule will not be in effect in that state to the extent specified by the Board in its determination, for as long as the state effectively administers and enforces the State requirement or prohibition. The effect of an exemption is that banks and their subsidiaries (other than federally chartered institutions) that are subject to the Board's rule will be subject solely to State law and enforcement.

Applicable State law provisions need not be the same as the comparable federal requirement in order to meet the rule's substantially equivalent standard. Variations, however, should not deprive consumers of protections provided by Federal law. An analysis of the state's ment activities focuses on the ways in which a State demonstrates a commitment to ment and administration of the State's law; factors such as staffing, training activities, examination and administrative procedures, and other indicators of ment efforts may be considered, as well as the existence under the State law of any private right of action by aggrieved consumers.

The State of Wisconsin, through its Banking Commissioner, applied to the Board for an exemption from the Board's

[1] Under section 18(a)(1)(B) and section 5(a)(1) of the Federal Trade Commission Act (FTC Act), the FTC is authorized to promulgate rules that define and prevent "unfair or deceptive acts or practices" in or affecting commerce with respect to extensions of credit to consumers. Section 18(f) of the FTC Act provides that whenever the FTC promulgates a rule prohibiting practices which it has deemed to be unfair or deceptive, the Board, with certain limited exceptions, must adopt a substantially similar rule prohibiting such practices by banks. The Federal Home Loan Bank Board (FHLBB) is also required under section 18(f) to adopt a rule substantially similar to that of the FTC for institutions that are members of the Federal Home Loan Bank System; the FHLBB did so in May 1985 (59 FR 19325), with its rule also taking effect on January 1, 1986.

Credit Practices Rule.[2] Notice of the exemption request, with an opportunity for public comment, was published on March 20, 1986 (51 FR 9684). Wisconsin requested an exemption from all of the provisions of the Board's rule. The comparable state provisions that form the basis for Wisconsin's exemption request are contained in the Wisconsin Consumer Act and administrative rules.

In its March notice, the Board detailed, and requested comment on, the differences between the Board's rule and the relevant provisions of the Wisconsin statute. Very few comments were received on the exemption request. The commenters generally indicated that most of the relevant provisions of Wisconsin law provide a level of consumer protection that is either substantially equivalent to, or greater than, that provided by the Board's rule. Some concern was expressed, however, about whether the Wisconsin household goods and cosigner provisions provide protections that are substantially equivalent to those provided by the Federal rule. In the Board's view, the differences between the Board's rule and Wisconsin law—with one exception as noted below—are not substantial and, therefore do not adversely affect Wisconsin's exemption request. Moreover, the Board finds that Wisconsin has demonstrated that it administers and enforces its laws effectively.

The Wisconsin Consumer Act does not cover consumer credit transactions over $25,000. The Board's rule—like the FTC's Credit Practices Rule—protects all consumers against the use of certain creditor remedies that have been deemed unfair or deceptive, regardless of the amount of the transaction. Consequently, the Board is granting the state of Wisconsin an exemption from the rule for transactions up to $25,000; transactions over $25,000 would remain subject to the rule. In order to accomplish the intended purpose of the rule—to provide protections in all consumer credit transactions— and at the same time relieve Wisconsin banks of the burden of complying with two different laws (state law for transactions up to $25,000 and federal law for transactions over $25,000), the Board deems compliance with the relevant provisions of Wisconsin law for transactions over $25,000 to be in compliance with the Federal rule's requirements.

In accordance with the procedures established by the Board for making exemption determinations (contained in Appendix B to Regulation Z, 12 CFR Part 226), the Board reserves the right to revoke an exemption if at any time it determines that the standards required for an exemption are not being met. A state that is granted an exemption must inform the Board within 30 days of any change in its relevant law or regulations. In addition, the State must file with the Board such periodic reports as the Board may require. The Board will inform the appropriate State official of any revisions in the federal statute, regulation, interpretations, or enforcement policies that must be adopted by the State in the future, and will allow sufficient time to the State to revise its laws and regulations, in order for the State to maintain its exemption. Where the Board makes an initial determination that an exemption should not be granted, the Board will afford the State a reasonable opportunity to demonstrate further that an exemption is proper.

(2) Order of Exemption

The following sets forth the terms of the Wisconsin exemption:

Order

The State of Wisconsin has applied for an exemption from the Credit Practices Rules which became effective January 1, 1986. Pursuant to § 227.16 of Regulation AA, the Board has determined that the relevant laws of this State are substantially equivalent to the Federal law and that the State administers and enforces its laws effectively. The Board hereby grants the exemption as follows:

Effective November 20, 1986, consumer credit transactions under $25,000 that are subject to the Wisconsin Consumer Act and its implementing regulations are exempt from the Board's Credit Practices Rule. Consumer credit transactions over $25,000 are subject to the Board's Credit Practice Rule; however, compliance with the relevant provisions of the Wisconsin Consumer Act would be considered in compliance with the Board's rule.

This exemption does not apply to transactions in which a federally chartered institution is a creditor.

By order of the Board of Governors of the Federal Reserve System, November 13, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-26040 Filed 11-18-86; 8:45 am]

BILLING CODE 6210-01-M

[2] The State of Wisconsin has submitted similar applications to the FTC and to the FHLBB, in order to obtain exemptions from the credit practices rules of those agencies. The Wisconsin exemption requests to those agencies were published for comment in the **Federal Register** at 50 FR 46082 and 51 FR 12865, respectively. A final determination by the FTC granting Wisconsin an exemption from the FTC's rule for transactions under $25,000 was published on July 3, 1986 (51 FR 24304).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Certification of True Copies and Use of Department Seal

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to certification of true copies and use of the Department seal to update the list of delegates according to changes in organization titles.

EFFECTIVE DATE: November 19, 1986.

FOR FURTHER INFORMATION CONTACT: Margie J. Shandruk, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: The newly established position of Deputy Director, Office of Regulatory Resource Management, Office of Regulatory Affairs, is being added to the list of delegates. In addition, reorganizations in FDA require that the list of delegates in § 5.22 (21 CFR 5.22) be updated. The reorganization of September 24, 1986 (51 FR 33931), abolished the Office of Consumer and Professional Affairs in the Center for Drugs and Biologics (CDB) and transferred freedom of information functions to the Office of Management, CDB. A reorganization of October 3, 1986 (51 FR 35433), transferred the Division of Food Technology, Office of Nutrition and Food Sciences, Center for Nutrition and Food Safety, to the Office of Physical Sciences, and retitled it as the Division of Food Chemistry and Technology. Also, the Division of Drug Quality Compliance, Office of Compliance, CDB, was retitled on February 12, 1986, as the Division of Manufacturing and Product Quality. This document revises § 5.22 *Certification of true copies and use of Department seal.*

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be

exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs, Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

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

Authority: 5 U.S.C. 504, 552; 7 U.S.C. 2217; 15 U.S.C. 638, 1451 et seq., 21 U.S.C. 41 et seq., 61–63, 141 et seq., 301–392, 467f(b), 679(b), 801 et seq., 823(f), 1031 et seq.; 35 U.S.C. 156; 42 U.S.C. 219, 241, 242(a), 242a, 242l, 242o, 243, 262, 263, 263b through 263m, 264, 265, 300u et seq., 1395y and 1395y note, 3246(b)(3), 4831(a), 10007, and 10008; Federal Caustic Poison Act (44 Stat. 1406); Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1241); Federal Advisory Committee Act (Pub. L. 92–463); E.O. 11490, 11921.

2. By revising § 5.22(a) (4) (iii), (7) (iii), (iv), and (vi), and (8)(v), to read as follows:

§ 5.22 Certification of true copies and use of Department seal.

(a) * * *

(4) * * *

(iii) The Director and Deputy Director, Office of Regulatory Resource Management ORA.

* * * * *

(7) * * *

(iii) The Chief, Freedom of Information Staff and Freedom of Information Offices, Office of Management, CDB.

(iv) The Chief, Biologics Information Staff, Office of Biologics Research, CDB.

* * * * *

(vi) The Directors of the Divisions of Drug Quality Evaluation, Drug Labeling Compliance, and Manufacturing and Product Quality, Office of Compliance, CDB.

* * * * *

(8) * * *

(v) The Director, Division of Food Chemistry and Technology, Office of Physical Sciences, CFSAN.

* * * * *

Dated: November 10, 1986.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–26051 Filed 11–18–86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 74, 81, 82, and 201

[Docket No. 86C–0192]

Permanent Listing of FD&C Yellow No. 6

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is permanently listing FD&C Yellow No. 6 for use generally in food, drugs, and cosmetics. These actions respond to a petition filed by the Cosmetic, Toiletry and Fragrance Association; the Pharmaceutical Manufacturers Association; and the Certified Color Manufacturers Association. This rule will remove FD&C Yellow No. 6 from the provisional list of color additives. Also, it will establish requirements for the label declaration of FD&C Yellow No. 6 because of evidence of possible allergic-type reactions to the color additive.

DATES: Effective December 22, 1986, except as to any provisions that may be stayed by the filing of proper objections; objections by December 19, 1986. The labeling requirements (§ 201.20(a)) are effective November 19, 1987.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C Street. SW., Washington, DC 20204, 202–426–5487.

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I. Introduction

In 1960, Congress passed the Color Additive Amendments (the amendments). In *Certified Color Mfg. Ass'n* v. *Matthews*, 543 F.2d 284, 286–287 (D.C. Cir. 1976), the United States Court of Appeals for the District of Columbia Circuit explained the purpose of this legislation:

> The Color Additive Amendments of 1960 reflect a Congressional and administrative response to the need in contemporary society for a scientifically and administratively sound basis for determining the safety of artificial color additives, widely used for coloring food, drugs, and cosmetics. The Amendments reflect a general unwillingness to allow widespread use of such products in the absence of scientific information on the effect of these products on the human body. The previously used system had some glaring deficiencies, and the 1960 Amendments were designed to overcome them. * * *

[Footnotes omitted.]

As amended, section 706(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376(a)) provides that a color additive will be deemed unsafe for use in food, drugs, cosmetics, and some medical devices unless FDA has issued a regulation permanently listing that color additive for its intended use. FDA will issue such a regulation only if it has been presented with data that establish with reasonable certainty that no harm will result from the use of the color additive. The burden of presenting such data is on the person who is seeking approval of the use of the additive.

In passing the amendments, Congress provided for the provisional listing of the color additives in use at that time, pending completion of the scientific investigations needed for a determination about the safety of these additives (section 203(b) of the transitional provisions of the amendments, Title II, Pub. L. 88–618, 74 Stat. 404–407 (21 U.S.C. 376, note)). Section 81.1 (21 CFR 81.1) of the agency's color additive regulations

enumerates those additives that are still provisionally listed. Among them is FD&C Yellow No. 6 for use generally in food, drugs, and cosmetics.

II. Regulatory History

In the **Federal Register** of November 20, 1968 (33 FR 17205), FDA announced that a petition, now identified as CAP 8C0066, was filed by the Cosmetic, Toiletry and Fragrance Association (CTFA) (previously the Toilet Goods Association, Inc.); the Pharmaceutical Manufacturers Association (PMA); and the Certified Color Manufacturers Association (CCMA) (previously the Certified Color Industry Committee), c/o Hazleton Laboratories, Inc., 9200 Leesburg Turnpike, Vienna, VA 22180. The petition was proposing the issuance of a color additive regulation to provide for the safe use of FD&C Yellow No. 6 as a color additive for use in food, drugs, and cosmetics. The petition was filed under section 706 of the act (21 U.S.C. 376).

Currently, FD&C Yellow No. 6 is provisionally listed in 21 CFR 81.1(a) for use in food, drugs, and cosmetics generally subject to conditions under § 81.27 (21 CFR 81.27). It is identified in § 82.706 (21 CFR 82.706) by the name disodium salt of 1-*p*-sulfophenylazo-2-naphthol-6-sulfonic acid. Section 82.706 prescribes specifications to be used by FDA in the certification of the color additive and identifies the color additive that may be used in the formation of lakes under the provisions of Part 82 (21 CFR Part 82).

A. Chemistry Data Concerning FD&C Yellow No. 6

In the **Federal Register** of September 23, 1976 (41 FR 41860) (Docket No. 76N–0366), FDA stated that there were 15 provisionally listed color additives that could not be permanently listed at that time because complete chemistry data were lacking to establish specifications for the color additive. FD&C Yellow No. 6 was among the 15. FDA requested the submission of these chemistry data and specifically stated that:

> The chemistry data lacking on these 15 colors consist of sufficiently precise analytical methods and other information to enable FDA to identify and define the color additives more accurately than currently available data permit. Detailed specifications and precise analytical methods are required to certify batches of each color additive as equivalent to the batches of each color additive used in conducting animal studies to establish the safety of the color.

The agency proposed to continue the provisional listing of FD&C Yellow No. 6 to September 30, 1977, to provide for the submission of the necessary chemistry information. In the **Federal Register** of February 4, 1977 (42 FR 6992), FDA announced that the petitioner had submitted chemistry data which adequately addressed the deficiencies for FD&C Yellow No. 6. The agency continued the provisional listing of FD&C Yellow No. 6, however, because of the need for additional toxicity data as discussed below. FDA made the determination that continued provisional listing of the color additive under its intended conditions of use would not present a hazard to the public health.

B. Toxicology Testing of FD&C Yellow No. 6

In the **Federal Register** of September 23, 1976 (41 FR 41860) (Docket No. 76N–0366), FDA stated that the available toxicological studies were inadequate to support the permanent listing of several color additives, including FD&C Yellow No. 6. The agency explained that the studies were deficient in the following respects:

1. Many of the studies were conducted using groups of animals, i.e., control and those fed the color additive, that are too small to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color. The small number of animals used does not, in and of itself, cause this result, but when considered together with the other deficiencies in this listing, does do so. By and large, the studies used 25 animals in each group; today FDA recommends using at least 50 animals per group.
2. In a number of the studies, the number of animals surviving to a meaningful age was inadequate to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested.
3. In a number of the studies, an insufficient number of animals was reviewed histologically.
4. In a number of the studies, an insufficient number of tissues was examined in those animals selected for pathology.
5. In a number of the studies, lesions or tumors detected under gross examination were not examined microscopically.

The agency proposed that the continued provisional listing of several color additives, including FD&C Yellow No. 6, be conditioned upon at least one petitioner undertaking new chronic feeding studies for each of these color additives. On February 4, 1977, the agency published a final order that responded to comments on the proposal, and extended the provisional listing of FD&C Yellow No. 6 to January 31, 1981 (42 FR 6992).

Thereafter, FDA extended the closing date several times to permit completion of the chronic toxicity studies and the submission of the resulting data. Once the petitioners had met their obligations, the closing date was then extended to give the agency time to complete its evaluation of all the data submitted, and to incorporate findings from peer review conducted by the National Toxicology Program Board of Scientific Counselors Technical Review Subcommittee. The most recent extension was announced in the **Federal Register** of October 6, 1986 (51 FR 35511), establishing the current closing date of December 5, 1986.

C. Citizen Petition Filed by Public Citizen Health Research Group

On December 17, 1984, the Public Citizen Health Research Group (Public Citizen) petitioned FDA to ban the use of the color additives that remained provisionally listed, including FD&C Yellow No. 6 (Ref. 1). On January 22, 1985, Public Citizen filed a complaint in the District Court for the District of Columbia seeking the same relief. Public Citizen alleged that, by continuing to provisionally list the color additives, including FD&C Yellow No. 6, FDA had violated the Color Additive Amendments to the act, as well as those provisions of the Administrative Procedure Act (5 U.S.C. 706(1)) that pertain to unreasonable delay of agency action. Public Citizen sought to enjoin FDA from using the provisional list or any other means to allow the marketing of the provisionally listed color additives.

On June 21, 1985, the Commissioner of Food and Drugs sent to Public Citizen a response to the petition. The response includes a detailed discussion of FDA's evaluation of the safety of FD&C Yellow No. 6 and is incorporated herein by reference (Ref. 2). In the letter, the Commissioner concluded that the public health would not be endangered by the continued marketing of the color additives, including FD&C Yellow No. 6, while scientific, legal, and policy issues were addressed and, therefore, the Commissioner denied the petition.

On February 13, 1986, Judge Stanley S. Harris granted FDA's motion for summary judgment and dismissed Public Citizen's complaint. *Public Citizen et al. v. DHHS, et al.*, No. 85–1572 (D.D.C. February 13, 1986). Public Citizen has appealed Judge Harris' decision.

D. Lakes of FD&C Yellow No. 6

To establish permanent regulations for lakes, FDA proposed the listing of, and specifications for, lakes of permanently listed color additives in the **Federal Register** of May 11, 1965 (30 FR 6490). However, because no certified color additives were permanently listed in 1965, the agency did not issue a final rule on the proposal, and the provisional

regulations for lakes under Parts 81 and 82 have remained in effect.

In the **Federal Register** of June 22, 1979 (44 FR 36411), FDA published a notice of intent to propose rules concerning lakes of color additives. This notice discussed the general areas of concern in the development of a new proposal for the regulation of lakes. Although several color additives have been permanently listed under Part 74, the agency did not consider the permanent listing of their lakes to be appropriate because questions about the safety and use of the lakes had arisen. Because of the amount of time that had passed since the 1965 proposal, the agency concluded that a new proposal on lakes should be developed and published. Therefore, FDA withdrew its original proposal (30 FR 6490) and requested information for use in the development of a new proposal for the regulation of lakes.

The agency is deferring the issue of lakes for the reasons discussed in the notice of intent to propose rules published in the **Federal Register** of June 22, 1979 (44 FR 36411). Lakes of certified color additives, including FD&C Yellow No. 6, will be addressed fully in a future **Federal Register** publication. However, the agency is requiring that the provisionally listed lakes of FD&C Yellow No. 6 be manufactured from certified batches of the color additive. A discussion concerning this requirement appears in the conclusion section of this document.

III. Overview of the Final Rule

FDA has evaluated all the available evidence regarding the safety of FD&C Yellow No. 6. Based upon this evaluation, FDA finds that there is sufficient evidence for the agency to establish with reasonable certainty that no harm will result from permanently listing the use of FD&C Yellow No. 6 in food, drugs, and cosmetics. The agency concludes that these uses of FD&C Yellow No. 6 are safe.

The remaining sections of this document describe the information and data relied upon by the agency in reaching its conclusion concerning the safety of FD&C Yellow No. 6. First, the agency evaluates the available data resulting from the toxicology testing of FD&C Yellow No. 6 and explains its conclusion that the compound has not been shown to induce cancer in laboratory animals. Next, in order to provide an adequate margin of safety for the permanently listed food, drug, and cosmetic uses of the color additive, the agency establishes an acceptable daily intake level for the color additive. Then, the agency discusses the issues arising from carcinogenic impurities that may be present in FD&C Yellow No. 6. Last, the agency discusses the available information concerning allergic reactions to FD&C Yellow No. 6 and, in light of this latter information, the agency establishes labeling requirements for the safe use of the additive.

IV. Statutory Requirements

Section 706(b)(4) of the act, the so-called "general safety provision" for color additives, enjoins the Secretary from listing a color additive for a particular use unless the data presented by the petitioner establish that the color is safe for that use. Although what is meant by "safe" is not explained in the general safety provision, the legislative history makes clear that this word is to have the same meaning for color additives as for food additives. (See H. Rept. 1761, "Color Additive Amendments of 1960," Committee on Interstate and Foreign Commerce, 86th Cong., 2d Sess. 11 (1960).)

The concept of safety embodied in this requirement was explained in the Senate Report on the Food Additives Amendment for 1958:

> The concept of safety used in this legislation involves the question of whether a substance is hazardous to the health of man or animal. Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstances.
>
> This was emphasized particularly by the scientific panel which testified before the subcommittee. The scientists pointed out that it is impossible in the present state of scientific knowledge to establish with complete certainty the absolute harmlessness of any chemical substance.

S. Rept. 2422, "Food Additive Amendment of 1958," Committee on Labor and Public Welfare, 85th Cong., 2d Sess. 6 (1958).

FDA has incorporated this concept of safety into its color additive regulations. Under 21 CFR 70.3(i), a color additive is "safe" if "there is convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the color additive." Therefore, the general safety provision prohibits approval of a color additive if doubts about the safety of the additive for a particular use are not resolved to an acceptable level in the minds of competent scientists. In addition, the Delaney Clause (section 706(b)(5)(B) of the act) provides that a color additive shall be deemed to be unsafe "if the additive is found by the Secretary to induce cancer when ingested by man or animal" (21 U.S.C. 376(b)(5)(B)(i)).

V. The Safety of FD&C Yellow No. 6

In reviewing food and color additive petitions, FDA routinely reviews all data submitted by the petitioner as well as any other available pertinent data. The agency has completed its review and evaluation of the color additive petition for FD&C Yellow No. 6, including the new chronic toxicity (carcinogenesis) studies in rats and mice. On the basis of its review and evaluation, the agency concludes that FD&C Yellow No. 6 is not a carcinogen and that available data support the finding that the color additive is safe for use in food, drugs, and cosmetics.

A. Old Studies

The agency previously reviewed reports of several toxicity studies of this color additive involving rats, mice, dogs, rabbits, and minipigs (Ref. 3). These studies included acute toxicity studies of the color additive administered orally and by intraperitoneal injection, subchronic studies using dietary exposure, teratology and reproductive studies, mutagenicity and other short-term studies, metabolism studies, and chronic toxicity studies. For the chronic studies, the animals were exposed to FD&C Yellow No. 6 in the diet and in the drinking water, by skin painting, and subcutaneous injections. The chronic studies included a 7-year study in dogs and carcinogenesis bioassays in rats and mice. With the exception of the 1981 National Cancer Institute/National Toxicology Program (NCI/NTP) bioassays that were done, the agency considered past studies as inadequate for a final determination of the safety of FD&C Yellow No. 6.

There was reported a "suggestive" increase in the number of mammary tumors in a lifetime (chronic) study in Osborne-Mendel rats that was not observed in any other study (Ref. 3). The International Agency of Research on Cancer reviewed this study and a followup study and concluded that there was not a statistically significant increase in the number of mammary tumors and there was no effect on tumor formation in the followup study (Ref. 4). Other than the "suggestive" result mentioned above, there were no reports of any carcinogenic effect attributable to FD&C Yellow No. 6 as a result of these studies.

B. New Long-Term Feeding Studies

The new studies of the provisionally listed color additives, including FD&C Yellow No. 6 represent current state-of-the-art toxicological testing. The protocols for these studies have benefited from knowledge of

deficiencies in previously conducted carcinogenesis bioassays and other chronic toxicity studies. The use of large numbers of animals of both sexes, pilot studies to determine maximum tolerated dosages, two control groups (thereby effectively doubling the number of controls), and in utero exposure in one of the two species tested (the rat) significantly increase the power of these tests for detecting dose-related effects. The studies were designed and conducted in full compliance with FDA's good laboratory practice regulations and were subject to FDA inspection while they were being conducted.

1. *Mice.* Charles River CD–1, COBS(ICR-derived) mice were fed FD&C Yellow No. 6 ad libitum at dietary levels of 0.5, 1.5, and 5 percent. Two groups were fed the plain diet. Each group consisted of 60 males and 60 females that were randomly assigned. The study was terminated at 20 months for the male mice and at 23 months for the female mice by sacrificing the surviving animals.

The mortality rate was higher in male mice fed diets containing 5 percent FD&C Yellow No. 6 than in the male control groups ($p<0.01$, life table analysis). Mean body weights of male mice of this dosage group were less than those of the pooled controls throughout the study despite elevated food consumption. In female mice, elevated food consumption occurred for the group fed 5 percent FD&C Yellow No. 6. Elevated food consumption occurred also for the male mice fed 0.5 and 1.5 percent FD&C Yellow No. 6.

Complete histopathology was done on the controls and the high dosage groups. Histopathological examinations of all tissue masses and other gross changes of an uncertain nature were done for mice in the two lower dosage groups. Gross postmortem examinations of treated mice revealed yellow to orange discoloration of the gastrointestinal tract by the color additive.

The gross and microscopic examinations of tissues and organs of mice from this study revealed no adverse morphological changes that could be attributed to treatment with FD&C Yellow No. 6. Detailed statistical analyses by the petitioner indicated that this color additive had no effect on the incidence of mice with any tumor type or on the time to tumor.

2. *Rats*—(a) *Protocols.* Two long-term feeding studies with in utero exposure to FD&C Yellow No. 6 were carried out with the Charles River Albino (CD)® rats. Parent animals (60 males and 60 females per group) were randomly assigned and mated. FD&C Yellow No. 6 was mixed with the diet and fed ad libitum to the parents prior to mating and subsequently fed to their offspring. The dosage levels used in the first study were 0.75, 1.5, and 3 percent FD&C Yellow No. 6. The dosage level used in the second study was 5 percent after FDA scientists concluded that the 3 percent dose was too low. Two groups of controls were fed the plain diet in the first study and one group of controls was included in the second study. For the chronic phase, 70 male and 70 female offspring were selected randomly from each of the treated and control groups.

Interim sacrifice and necropsy of 10 rats per sex per group were performed 1 year after the initiation of the long-term feeding study in the offspring. The first study was terminated at 30 months for male rats and at 28.5 months for female rats. The second study was terminated at 25.6 and 27.8 months, for male and female rats, respectively.

Tissues from all rats in the three control groups and the two high-dose groups (3 percent and 5 percent FD&C Yellow No. 6) were subjected to histopathological examinations. Histopathological evaluations were performed on all tissues masses and gross lesions from animals in the two lower dosage groups.

b. *General findings.* Survival of offspring was reduced in the groups fed 3 percent and 5 percent FD&C Yellow No. 6 in the diet. Reduced pup weights occurred at these same dosages and at 1.5 percent also. In the chronic phase, survival of male rats fed 5 percent FD&C Yellow No. 6 was decreased ($p=0.01$, NCI analysis for survivorship). Body weights of rats fed the 5 percent diets were decreased throughout the study. The body weights of treated and control rats of the first study were generally comparable despite decreased pup weights in groups treated with 1.5 and 3 percent FD&C Yellow No. 6. Food consumption of all treated groups in both studies was generally increased.

There were no differences in hematology measurements, clinical chemistry measurements, and urinalysis in either study that can be attributed to treatment. Urine samples from rats fed FD&C Yellow No. 6 were a different color (amber to orange) than those from control rats.

A slight increase in kidney weights of female rats treated with 5 percent FD&C Yellow No. 6 was noted in rats killed at 1 year interim sacrifice. There was no morphological evidence of any adverse treatment-related effect in these kidneys or in any other organs or tissues of treated rats after 1 year of treatment with FD&C Yellow No. 6. At the terminal sacrifice, female rats treated with 3 percent and 5 percent of FD&C Yellow No. 6 had increased mean relative kidney weights ($p=0.05$).

C. Toxicological Issues and Evaluation

After examining the initial data pertaining to the possible carcinogenicity of FD&C Yellow No. 6, the Cancer Assessment Committee (the committee) of FDA's Center for Food Safety and Applied Nutrition (CFSAN) concluded that the studies revealed no carcinogenic effect in male or female mice and in male rats that could be attributed to treatment with FD&C Yellow No. 6. The committee could not make a similar conclusion regarding the female rats. Accordingly, the committee concluded that further evaluation of tumors in adrenal glands and kidneys was needed.

1. *Adrenal findings.* The contract laboratory (Bio/dynamics) reported a higher incidence of treated female rats with adrenal medullary tumors in the two high-dose groups (3 and 5 percent dietary FD&C Yellow No. 6) than was found in control female rats. To evaluate this observation, FDA obtained from the sponsor (CCMA) all available microslides of adrenal glands from female rats. In addition, FDA obtained from the sponsor new microslides from resectioned adrenal glands from those animals for whom the amount of adrenal medulla in the originally submitted slides had heen inadequate for diagnosis. Adrenal glands from female rats of the two lower dosage groups not previously examined were also later sectioned and submitted to FDA for review.

FDA pathologists reported incidences of adrenal medullary lesions that were generally higher than those reported by the contract laboratory pathologists. These differences were similar, across all groups, treated as well as control groups. Accordingly, the conclusion regarding the adrenal lesions was the same from both sets of diagnoses.

According to FDA pathologists, the incidences of female rats with adrenal medullary tumors (pheochromocytoma) were 12/68 (17.6 percent) in control IA, 6/66 (9.1 percent) in control IB, 7/66 (10.6 percent) in the 0.75 percent dietary level of FD&C Yellow No. 6, 9/64 (14.1 percent) in the 1.5 percent dietary level, and 15/66 (22.7 percent) in the 3.0 percent dietary level. Prevalence statistical tests for high dose to combined control comparison and dose-related trend yield p-values of 0.054 and 0.022, respectively, for these incidences. (The prevalence analysis is a time-adjusted statistical test for comparing incidences of lesions considered to be

nonlethal.) In the second Charles River Albino (CD)® study, the 5.0 percent dietary and its control female groups had incidences of rats with this tumor of 15/68 (22.1 percent) and 5/70 (7.1 percent), respectively. Utilizing the low control incidence in this study, the prevalence p-value for this comparison was 0.01.

FDA carefully considered the potential implication of the occurrence in the high-dose groups of more female rats with pheochromocytoma than in the other groups. As recommended by the Office of Science and Technology Policy (OSTP) (Ref. 5), FDA utilized information derived from toxicology, pathology, and scientific disciplines instead of focusing on only the tumor incidence data.

For a number of reasons, FDA scientists have concluded that the higher incidence of rats with pheochromocytoma in the high-dose female rat group is not related to treatment with FD&C Yellow No. 6. The reasons are:

(a) *Small Magnitude of Difference and Lack of Dose Response.* The number of female rats (15) with pheochromocytoma in the group fed 5 percent FD&C Yellow No. 6 was exactly the same as the number seen in the group fed the 3 percent diet in the first study. If the response were compound-related, one would expect a higher number of rats with pheochromocytoma in the 5 percent group than in the 3 percent group. Considering that 12 rats with pheochromocytoma were found in one of the control groups of the first study, the occurrence of 15 rats with pheochromocytoma in a group is not remarkable. The p-value (0.01) for the treated versus control comparison of incidences of rats with pheochromocytoma in the second study is likely to be more a reflection of the low number of animals in the concurrent control group rather than the result of any real increase in the number of treated female rats with this tumor. Moreover, when the two experiments are considered together, there is no indication of dose-related increase in incidence.

(b) *Likelihood of False Positives.* In the CCMA-sponsored studies in mice and rats, a large number of animals were tested at several dose levels. A very large number of tissue sites were examined for tumors. Considering the study design and the large number of comparisons among control and treated groups, the p-values for comparisons between incidences of treated rats with pheochromocytoma and controls are not remarkable. In fact, even more extreme p-value would be expected to occur by chance given the numerous explicit or implicit comparisons made of the tumor incidences at so many organ/tissue sites (48 FR 5257) (Ref. 6).

(c) *Lack of Precancerous Lesions.* Adrenal medullary hyperplasia has been identified as a stage in the development of pheochromocytoma in rats (Gillman, Gilbert, and Spence, 1953) (Ref. 7). It follows that, if the pheochromocytoma in the female rats had been induced by treatment, the incidence of animals with medullary hyperplasia would have increased correspondingly in the treated groups. However, the incidence of female rats with adrenal medullary hyperplasia was similar in the treated and control groups. This lack of any dose response information indicates that no treatment-related carcinogenic process occurred in the adrenal glands of the rat.

(d) *Morphological Similarity of Adrenal Medullary Lesions in Treated and Control Rats.* The induction of neoplasia by carcinogens is often multicentric (Shabad, 1973) (Ref. 8). If pheochromocytoma and medullary hyperplasia had been induced by treatment, both adrenals would be more likely to be affected in a treated animal and the distribution of the lesions (medullary hyperplasia/pheochromocytoma) would more likely be multifocal. In the FD&C Yellow No. 6 studies, the pheochromocytoma and medullary hyperplasia were distributed (focal/multifocal/diffuse) similarly within the adrenal glands across all groups and showed no predilection for unilateral and bilateral occurrence that could be related to treatment. Also, the number of rats with both a pheochromocytoma and medullary hyperplasia was similar across control and treated groups. These observations indicate that no carcinogenic process associated with exposure to FD&C Yellow No. 6 occurred in the adrenal glands.

(e) *Unaffected Latency Period.* A positive result in a carcinogenesis bioassay can be based on a decreased latency period as well as on an increase in incidence of tumors (Ref. 5). In the current Charles River Albino (CD)® rat studies, based on the mortality records of these animals, generally there were no early occurrences of medullary proliferative lesions in treated rats as compared with their controls. In fact, most of these lesions were found in older rats. If pheochromocytoma were induced by treatment, a substantially decreased latency period should have been observed.

(f) *Spontaneous Tumors.* Pheochromocytoma is a common old age spontaneous tumor in rats (Hollander and Snell, 1976) (Ref. 9). The reported historical incidence of rats with pheochromocytoma tends to underestimate the occurrence of the lesion because most compilations do not include rats as old as those in the studies and because some studies have failed to ensure the presence of adequate medullary tissue tor diagnosis in every animal (Ref. 10). The number of female rats with pheochromocytoma in the two high-dose groups of the present study is unremarkable given the variable occurrence of this tumor and the limitations of the historical data (Ref. 7).

(g) *Lack of Effect in Male Rats.* Generally, male rats display higher incidences of pheochromocytoma than do female rats (Refs. 9 and 11). Thus, if a treatment-related carcinogenic effect had occurred, it would be logical to expect that treated male rats would manifest more medullary lesions than female rats, based on the higher spontaneous background rate of male rats and their presumed increased sensitivity. The lack of a treatment-related effect in the male rats in the present studies is additional evidence that a treatment-related effect did not occur in the female rats.

(h) *Comparison with Other Studies.* There was no association between exposure to FD&C Yellow No. 6 and occurrence of pheochromocytoma (or adrenal medullary hyperplasia) in any of the other chronic studies on the color additive. These include studies in mice and dogs as well as in rats other than the Sprague-Dawley strain. The studies in rats include a recent NCI/NTP study in Fischer 344 rats (Ref. 12). Fischer rats, like the Charles River Albino (CD)® rats, have a high spontaneous background rate of pheochromocytoma late in life. Because a carcinogenic effect would be expected in a strain with potentially high susceptibility to a specific type of tumor, the lack of observed response of Fischer rats is consistent with the conclusion that there was a lack of treatment-related effects on the adrenal gland in Charles River Albino (CD)® rats.

(i) *Summary.* The following factors all indicate that there was no causal relationship between the occurrence of pheochromocytoma in Charles River (CD)® rats and exposure to FD&C Yellow No. 6:

The small increase in the number of treated animals with a type of tumor that occurs spontaneously with a high and variable incidence, p-values which were not particularly unusual for studies of this magnitude and complexity, the lack of any morphological or other biological support for a treatment-

induced carcinogenic process including the lack of any effect on the latency period for adrenal lesions, the absence of a dose-response relationship between the incidence and severity of either pheochromocytoma or medullary hyperplasia, the lack of a treatment-related effect in male rats for the medullary lesions, and the lack of similar effects in male or female rats of any of the other rat studies with FD&C Yellow No. 6.

2. *Kidney Lesions.* In the first rat study on D&C Yellow No. 6, no renal cortical tumors were reported in the high-dose group (3 percent) or either of the two control groups of female rats. In the 5 percent group, tested in the second study, four female rats were reported to have renal tubular adenoma and one female rat was reported to have kidney tumor that was initially diagnosed as a renal tubular cell carcinoma (this carcinoma was later diagnosed as a transitional cell tumor rather than a tubular cell tumor). No renal cortical tumors were reported in the control groups of the first study, although one control female rat from this study had a transitional cell tumor. In the second study, the female rats in both the group fed 5 percent of the color additive and the control group manifested a very high incidence of chronic progressive nephrosis (also called old-rat nephopathy). This disease is a common finding in kidneys of aging rats (Ref. 13).

FDA pathologist obtained kidney slides from both experiments for review. Following examination of the kidney slides, FDA decided that it was necessary to examine additional kidney tissue from female rats in the second experiment in order to determine if the small number of renal cortical tumors found was affected by any possible sampling differences associated with the widespread occurrence of chronic progressive nephrosis.

On March 14, 1985, FDA met with the petitioner and agreed on a protocol for obtaining for microscopic study the additional sampling of kidneys from female rats in the second Charles River Albino (CD)® rat study. On June 13, 1985, the sponsor submitted to FDA (1) microslides of additional sections from each kidney (for a total of 10 per kidney) of the female rats in the 5 percent dietary group and its control group and (2) the results of the sponsor's examination of these microslides.

The examination of additional sections of kidney from these female rats by the performing laboratory's pathologists showed that the tumor that had been diagnosed as a renal tubular cell carcinoma was of transitional cell origin and thus could not be counted with the renal tubular cell tumors. (Considering that two rats with transitional cell carcinoma were observed in the female control group, this finding is unremarkable with respect to treatment.) The pathologists also reported that there were considerably more kidneys with renal tubular adenomas in both the treated and control rats than when only one section of kidney was examined.

FDA pathologists also examined the additional kidney sections and agreed with the pathologists from the performing laboratory that the transitional cell carcinoma had been originally incorrectly classified as a tubular cell carcinoma. There was general agreement between FDA pathologists and the performing laboratory pathologists over the diagnoses of the original few tubular adenomas. However, the two groups of pathologists differed over the terminology to be applied in characterizing the very small proliferative lesions observed in the additional sections.

FDA scientists had recommended additional examination of the kidneys primarily for two reasons: (1) the presence of a malignant renal tubular tumor in the 5 percent dietary female group, and (2) the perceived rarity of renal tubular proliferative lesions. The additional examination eliminated the initial concern. The diagnosis of tubular carcinoma was found to be in error and, as explained above, the occurrence of this tumor would not be relevant to the occurrence of renal tubular tumors. The remainder of this section discusses the significance of the renal proliferative tubular lesions.

Based upon the diagnoses made by FDA pathologists, the incidence of female rats with renal tubular cell adenoma were control, 0/70; 5 percent dietary group, 5/70. The incidences of renal tubular nodular hyperplasia were control, 9/70; 5 percent dietary group, 16/70. Four rats in the latter group also had tubular cell adenoma. Prevalence analysis was performed for these incidences. For adenomas alone this test gave a p-value of 0.028 for comparison of the incidence in the 5 percent dietary group to the incidence in the control group. For combined incidences of adenoma and nodular hyperplasia, the same prevalence analysis gave a p-value of 0.05. These values are not remarkable and do not provide a persuasive quantitative argument for a treatment-related effect. However, given the differences in opinion of diagnoses of these lesions between FDA pathologists and pathologists of the performing laboratory, the agency relied on additional information in evaluating the significance of the observed lesions.

First, FDA reviewed available information on the historical spontaneous incidences of these renal lesions. The agency attempted to ascertain the range of spontaneous incidences among comparable untreated groups and to see if the observed incidence values for the treated group fell within or outside the range. However, the thorough sectioning of kidneys (10 sections per kidney) that occurred in the current study represents a unique situation for which no historical data are available. In a recent article, Hardisty demonstrated that in the pancreas not only does the incidence of small proliferative lesions in control groups increase dramatically with serial as opposed to single, random sectioning, but also that the range in incidences among four different control groups was substantial after serial sectioning (Ref. 18). There is no reason to believe that these increases will not also occur in the kidney.

FDA's Cancer Assessment Committee tentatively concluded that the higher incidence of rats with renal proliferative lesions in the treated group could not be directly attributable to FD&C Yellow No. 6. The Committee based its conclusion on the following factors: (1) The underlying kidney disease that could be exacerbated by the consumption (and excretion) of large amounts of FD&C Yellow No. 6 over a long period of time, (2) the presence of kidney tubular cell proliferative lesions generally associated with the occurrence of chronic progressive nephrosis, (3) the lack of treatment-related changes in kidneys of male rats (male rats are known to be more susceptible than female rats to the effects of renal carcinogens), and (4) the variability of the spontaneous occurrence of renal tubular cell tumors as shown by the higher number and greater severity of these tumors in male controls than in corresponding groups of treated male rats even after limited sampling of one section per kidney.

D. Peer Review of Kidney Lesions

In an attempt to definitively resolve how best to characterize the lesion, the agency requested the Board of Scientific Counselors of the National Toxicology Program (NTP) to consider the occurrence of more treated female rats with proliferative renal lesions than in controls in the second Charles River Albino (CD)® rat study and to determine whether this occurrence was indicative of the chemical induction of cancer.

FDA also requested the NTP panel to examine two related questions:

1. What is the role of chronic progressive nephrosis in the pathogenesis of renal proliferative lesions in rats fed diets containing high concentrations of FD&C Yellow No. 6?

2. Does the occurrence of a greater number of male rats with proliferative renal lesions (even without additional sectioning) in untreated controls influence the interpretation of a possible relationship to exposure to this color additive?

In the **Federal Register** of December 17, 1985 (50 FR 51455), it was announced that a meeting would be held on January 8, 1986, to provide peer review of the data from the chronic carcinogenesis bioassay of FD&C Yellow No. 6. National Toxicology Program's Board of Scientific Counselors Technical Reports Review Subcommittee and an Ad Hoc Panel of Experts constituted the Peer Review Panel (Panel). The Panel included the following:

Subcommittee Member

Dr. James Swenberg (Chairman), Head, Department of Biochemical Toxicology and Pathobiology, Chemical Industry Institute of Toxicology, Research Triangle Park, NC.

Panel Members

Dr. Richard J. Kociba, Dow Chemical USA, Midland, MI.

Dr. Robert A. Scala, Senior Scientific Advisor, Medicine and Environmental Health Department, Research and Environmental Health Division, Exxon Corp., East Millstone, NJ.

Dr. Bruce W. Turnbull, Professor and Associate Director, College of Engineering, Cornell University, Ithaca, NY.

Expert Pathology Consultants

Dr. Richard H. Bruner, Toxicology Detachment, Naval Medical Research Institute, Wright-Patterson AFB, Dayton, OH.

Dr. Harold W. Casey, Department of Veterinary Pathology, School of Veterinary Medicine, Louisiana State University, Baton Rouge, LA.

Prior to the Panel's meeting, a review package of relevant toxicological and pathological information was prepared by FDA for examination by the Panel. Microscopic slides of kidney lesions were made available to the Panel for examination prior to the meeting. Presentations to the Panel were made by representatives of FDA during the meeting.

After reviewing the study, including the microslides of kidney lesions from the female rats fed 5 percent FD&C Yellow No. 6 and their controls, the Panel concluded that "the resultant study data were considered insufficient to be categorized as a demonstrated carcinogenic response to the chemical treatment" (Ref. 14). The Panel based this interpretation on the following eight considerations:

(1) The acknowledged debatable nature of the small renal proliferative lesions variously categorized by different pathologists as representing nodular hyperplasia, adenomatous hyperplasia, or benign renal tubular adenomas;

(2) The lack of concurrence as to whether lesions were hyperplastic or benign neoplastic, noted upon inspection of the incidence rates reported for these lesions by different examining pathologists, i.e., those from Bio/dynamics, Division of Pathology (CFSAN), Experimental Pathology Laboratories, and the Peer Review Panel;

(3) With one exception, the unanimous agreement among the different examining pathologists of the absence of any definitive malignant renal cortical tubular neoplasms in the treated rats;

(4) The relatively unique condition wherein up to 20 sections (10 per kidney) were examined from each of the control and treated female rats from the high-dose (5 percent) study;

(5) The absence of any type of renal tubular proliferative response in the male rats (generally regarded as more sensitive than female rats to experimental renal tubular neoplasias) used in this study;

(6) The negative genetic toxicology data base;

(7) The previously reported chronic studies which were all negative for carcinogenicity; and

(8) The judgment that the dose chosen was a good approximation of the maximum tolerated dose (MTD) (Ref. 14).

The Panel concluded that the available data did not allow a definitive judgment to be made regarding what role the chronic progressive nephrosis may have placed in the formation of tabular proliferative lesions in treated and control groups. The Panel also noted that the question of the carcinogenicity of FD&C Yellow No. 6 could not be definitively resolved based upon the observations in the kidneys of the high-dose female group. Rather, the entire body of evidence needed to be evaluated to reach a conclusion.

In addition to the points discussed above, the Panel considered the occurrence of renal cell carcinomas in two untreated male control groups and none in treated groups in the CCMA-sponsored study to be a supportive factor in its evaluation of the evidence. The Panel also considered the fact that the histopathological slides of the kidneys in the NTP-sponsored study on FD&C Yellow No. 6 were reexamined prior to the peer review and NTP's original negative findings in the kidneys were confirmed.

The Panel concluded that "the weight of evidence of all the studies does not suggest that FD&C Yellow No. 6 is a renal carcinogen."

E. FDA's Final Evaluation of the Kidney Lesions

1. *Overview.* Following the peer review, the agency assessed the findings and conclusions of the Peer Review Panel and reevaluated all the information bearing on the question of whether FD&C Yellow No. 6 is a renal carcinogen. The agency concludes that FD&C Yellow No. 6 is not a renal carcinogen.

In reaching this conclusion, the agency noted the differences of opinion of the various pathologists over the diagnoses and nomenclature of small proliferative lesions seen in the kidneys. The following tables (Tables I and II) show the collective diagnoses of the four expert pathologists on the Peer Review Panel (Ref. 14). These tables reflect the range of opinion expressed by all the pathology reviewers and illustrate the dilemma presented by the unprecedented degree of sectioning of these small lesions, which could ordinarily be missed by most routine microslide reviews.

TABLE I.—RESULTS OF THE PATHOLOGY REVIEW OF KIDNEY SLIDES FROM CONTROL FEMALE RATS—STUDY NO. 78-2211—BY THE NTP PEER REVIEW PANEL PATHOLOGISTS ON JANUARY 7-8, 1986[1] [2]

Case No.	Number of proliferative lesions	Simple tubular hyperplasia	Nodular hyperplasia	Adenomatous hyperplasia	Renal tubular adenomas	Renal tubular carcinomas	Other diagnoses
1501	¾		¾				
1511		¾	¾				
1517		¾		¼			
1520		¾	¼				
1532		¼	¾	¼			
1549	¼	¾	¼				
1552	¾	¼	¼				
1555			¼	¼	¾		

TABLE I.—RESULTS OF THE PATHOLOGY REVIEW OF KIDNEY SLIDES FROM CONTROL FEMALE RATS—STUDY NO. 78-2211—BY THE NTP PEER REVIEW PANEL PATHOLOGISTS ON JANUARY 7-8, 1986[1] [2]—Continued

Case No.	Number of proliferative lesions	Simple tubular hyperplasia	Nodular hyperplasia	Adenomatous hyperplasia	Renal tubular adenomas	Renal tubular carcinomas	Other diagnoses
1556				¾	¾		[3] ¾
1568							[4] ¼
	3/10/70	6/10/70	7/10/70	4/10/70	2/10/70	0/10/70	

[1] n/4 = Number of Panel pathologists making a diagnosis/total number of Panel pathologists.
[2] n/10/70 = Number of animals diagnosed/number of animals examined/total number of animals in group.
[3] Diagnosed lesion as transitional cell carcinoma.
[4] Diagnosed lesion as transitional cell hyperplasia.

Table II.—Results of the Pathology Review of Kidney Slides From Treated Female Rats (FD&C Yellow No. 6—5 Percent in Diet)—Study No. 78-2211—by the NTP Peer Review Pathologists on January 7-8, 1986 [1] [2]

Case No.	Number of proliferative lesions	Simple tubular hyperplasia	Nodular hyperplasia	Adenomatous hyperplasia	Renal tubular adenomas	Renal tubluar carcinomas	Other diagnoses
2503			¼	¾	¼		
2507					¼		
2512				¾	¼		
2515	¾		¾				
2522	¼	¾	¼				
2524			¾	¾			
2525					¼		
2530			¼	¾			
2541		¼	¼	¾			
2550				¼	¾		
2551					¼		
2553				¾	¾		
2554							[3] ¼
2555				¾	¾		
2560		¾	¾				
2564			¾	¾			
2566		¾	¼	¼			
2568					¼		
2549							[4] ¼
	2/19/70	4/19/70	9/19/70	10/19/70	9/19/70	0/19/70	

[1] n/4 = Number of Panel pathologists making a diagnosis/total number of Panel pathologists.
[2] n/10/70 = Number of animals diagnosed/number of animals examined/total number of animals in group.
[3] Diagnosed lesion as malignant undifferentiated neoplasm, not otherwise specified.
[4] Diagnosed lesion as transitional cell hyperplasia.

2. *Statistical Analysis.* FDA statisticians analyzed the incidence of female rats with proliferative renal cortical lesions in the group treated with 5 percent FD&C Yellow No. 6 and in the control group (see Tables I and II). The lack of agreement among peer review pathologists regarding specific diagnosis provided difficulties as to which incidence figures to use for statistical analysis. The method that FDA used counted only those diagnoses on which two or more of the four pathologists agreed. The FDA analyses compared the two groups with respect to the incidence of female rats with tubular cell "adenoma" only and for combined tubular cell "nodular hyperplasia," "adenomatous hyperplasia," and "adenoma." The incidences for these diagnoses were 7/57 and 2/59 for adenoma only in the treated and control groups, respectively, and 16/57 and 5/59 for the combined lesions in the treated and control groups, respectively. In the latter case, for combined lesions, an animal was counted if two or more pathologists diagnosed any one of the three categories of lesions. The denominators reflect the elimination of the interim sacrificed animals and those dying before the interim sacrifice. The p-values for Fisher's Exact tests performed on these incidences gave 0.073 and 0.0057 for the adenoma only and combined lesions, respectively.

3. *Evaluation.* The extensive sampling provided by the 10 tissue sections per kidney is unprecedented; there is little historical experience from which to draw inferences about what to expect from the results of such a protocol. The small size of the lesions detected from the careful scrutiny of these kidneys apparently contributes to the difference of opinion among pathologists as to the diagnoses of the lesions. The expert pathologists on the Peer Review Panel considered that the disagreements represent valid differences of opinion under circumstances where there has been little previous experience to draw upon.

In addition to the foregoing complexities, many of the observations were made in animals found dead or sacrificed moribund with underlying extensive chronic progressive nephrosis. The nephrosis was extensive and severe in all groups, treated as well as controls, and occurred in a greater number of female rats in the high-dose group than in any other group. Chronic progressive nephrosis occurs spontaneously in older rats and confounds the interpretation of small proliferative lesions because it may affect the formation of these lesions. There are reports in the literature on the effect of age and diet on pathology findings in kidney. The authors of these papers comment extensively on the nephrosis occurring spontaneously in older rats and the effect that diet can play in the severity. For example, Durand, Fisher, and Adams (Ref. 15) refer to "striking" degrees of tubular hyperplasia in rats with spontaneous kidney disease. According to Gray (Ref. 13), most investigators have noted limited degrees of hyperplasia associated with chronic progressive nephrosis but have considered these focal increases of epithelial cells to be secondary in occurrence and compensatory in nature. According to Squire (Ref. 16), renal tubular adenomas occur sporadically in aging control rats and this occurrence appears to correlate with the development of chronic nephropathy. Thus, there is a reasonable basis for attributing proliferative changes in the kidneys of rats exposed to FD&C Yellow No. 6 to chronic progressive nephrosis.

Under these circumstances, the agency considers the findings in the kidneys of female rats from the second Charles River Albino (CD)® rat study as scientifically ambiguous. The observations in these rats represent new findings of scientific research over which scientific agreement about the meaning is lacking and is currently speculative. Yet, taking into consideration what is known about chemical carcinogenesis in animals, especially chemical carcinogenesis in the rat kidney, the results in the kidneys of female rats exposed to high doses of FD&C Yellow No. 6 do not fit the chemical carcinogenesis paradigm. Therefore, FDA concludes, as did the Peer Review Panel, that these data are insufficient evidence of a carcinogenic response that could be attributed to treatment with FD&C Yellow No. 6.

However, under these circumstances of uncertainty, it is necessary to consider the weight of the entire body of

evidence on FD&C Yellow No. 6 in order to determine whether the observations in the female rats have any utility in making conclusions about the carcinogenic potential and the safety of the color additive. Having evaluated all of the evidence from these studies, FDA has concluded that there is no basis for concluding that FD&C Yellow No. 6 is capable of inducing cancer of the kidneys. The main reasons that lead the agency to this conclusion are:

(a) *Proliferative lesions in male rats.* In the first and second Charles River Albino (CD)® rat studies, proliferative lesions of renal tubules were observed in several male rats in each of the three control groups. Some of these lesions were diagnosed as tubular cell carcinoma. These lesions were observed even though only one section per kidney was examined. Some kidney lesions were observed in treated male rats, but the number was generally lower than in the control groups. Apparently, in these studies of such a long duration (28 months), proliferative lesions of the renal tubules are not rare.

(b) *Greater reactivity of male rats to renal carcinogens.* A recent survey of more than 230 chemicals tested in 2-year chronic toxicity studies by NCI/NTP showed that chemically induced neoplasia of the kidney occurred more commonly in males than in females (Ref. 17). In fact, they found that of 10 chemicals identified as renal carcinogens, none produced renal neoplasta in females only. From additional searching of the literature on carcinogenicity, FDA scientists have been unable to find one example of a substance inducing renal tubular proliferative lesions in female rats only. On the other hand, male rats have responded to effects of renal carcinogens when female rats have been refractory (Ref. 17). There is no reason to believe that FD&C Yellow No. 6 would be an exception to the general observation that male rats are more sensitive to the effects of renal cortical carcinogens than female rats.

(c) *Lack of malignant tumors.* The Peer Review Pathologists did not diagnose as malignant any of the renal tubular lesions in the female rats administered FD&C Yellow No. 6. As can be seen in tables I and II, the lesions were described either as categories of hyperplasia or as early microscopic adenoma. The length of the study was 28 months following in utero exposure compared to the more usual 24 months without prior in utero exposure and the dietary level of the administered color additive was at 5 percent throughout the duration of the study. The design of the study afforded maximal opportunity for any substance to express the full range of proliferative tubular lesions, including carcinoma. That the full range of proliferative lesions was not seen, is, in the agency's view, a significant factor against the color additive inducing carcinogenic effects in the rat kidney. Considering that this study lasted some 16 months following detection of the first proliferative lesion, the fact that there was no progression to malignancy is not consistent with chemical induction of a carcinogenic process. The lack of progression is especially evident in the results of the terminal sacrifices where only 2 of 10 treated female rats displayed changes and the changes were only microscopic proliferative lesions. Thus, if FD&C Yellow No. 6 were a carcinogen for rat kidneys, at least some of the proliferative lesions observed in the study should have progressed to the malignant state. (Members of the Peer Review Panel judged this to be an important consideration.)

(d) *No decreased latency period.* Generally, the renal tubular lesions were seen in older animals. There was no evidence of a shortening of the latency period to the occurrence of proliferative renal lesions in the high-dose group which one would expect if renal carcinogenesis were taking place. Indeed, the earliest female rat with a proliferative lesion was 1 of the 10 controls that was sacrificed at 1 year. This is near the time when chronic renal nephrosis becomes notable. Renal proliferative lesions were an incidental finding in kidneys of rats that were found dead as early as 16 to 17 months into the chronic phase. (An incidental finding is one that is discovered at the necropsy of an animal which died of something else. See Peto, R., *British Journal of Cancer,* 29:100 (1974) (Ref. 19.).

(e) *Coincidence of renal proliferative lesions and chronic renal disease.* There was a considerable incidence of chronic progressive nephrosis in all groups and an increase in the incidence and severity of chronic progressive nephrosis in female rats fed high levels of FD&C Yellow No. 6. Chronic progressive nephrosis is a phenomenon in CD rats that increases dramatically with age (Ref. 13). Spontaneously occurring proliferative lesions/neoplasms of the renal tubules also tend to increase with age (Ref. 13).

(f) *Lack of corroborative evidence from other studies.* None of the other chronic studies in rats, mice, and dogs displayed a suggestion of treatment-related carcinogenic effects of FD&C Yellow No. 6 of the kidney. These studies include the recent studies with rats and mice sponsored by NTP. This lack of confirmation from other studies of the suggestive kidney finding in the second Charles River Albino (CD)® rat study further reduces the possibility that feeding FD&C Yellow No. 6 resulted in a carcinogenic process in the kidneys.

(g) *Genotoxicity of FD&C Yellow No. 6.* With the exception of one test for which increases in the chromosomal aberrations in vitro were reported to be associated with treatment (Ref. 20), all genotoxicity testing gave negative results (Ref. 21). There are reasons to question the validity of the positive results of the test for chromosomal damage because the substance used was not from a certified batch of FD&C Yellow No. 6 and because problems with purity were reported by the investigators (Ref. 22). Moreover, negative results were reported by the same investigators in an in vivo test that was used to investigate a similar end point. The results of short-term tests, when properly used and validated, can provide a strong indication of potential carcinogenicity (Ref. 5). The predominantly negative results with FD&C Yellow No. 6 support the conclusion that the color additive is not a carcinogen.

(h) *Conclusion.* The foregoing considerations have led the agency to conclude that the results of the second Charles River Albino (CD)® rat study do not support a finding that FD&C Yellow No. 6 when fed in the diet of laboratory animals, induced carcinogenic activity in animal kidneys or any other site. Moreover, no other data or scientific information exists to implicate FD&C Yellow No. 6 as a carcinogen. In fact, all of the other chronic studies and genetic toxicity testing provide no basis for a conclusion that FD&C Yellow No. 6 is carcinogenic. Under these circumstances, FDA concludes that FD&C Yellow No. 6 has not been shown to be a carcinogen and that, therefore, the proscriptions of the Delaney Clause do not apply to a determination whether the color additive may be permanently listed.

VI. Acceptable Daily Intake for FD&C Yellow No. 6

Based on the occurrence of the adverse effect of FD&C Yellow No. 6 on body weight gain seen at the 1.5 percent dietary level of the color additive in the most recent chronic feeding study in rats sponsored by CCMA, the agency concludes that the no adverse effect dosage is 0.75 percent (equivalent to 375 milligrams per kilogram body weight per day). Applying a hundredfold safety

factor, the agency has calculated the acceptable daily intake for FD&C Yellow No. 6 to be 3.75 millilgrams per kilogram body weight per day, or 225 milligrams per day for a 60 kilogram human. As discussed further below, the agency concludes that the likely foreseeable exposure to FD&C Yellow No. 6 from all uses should not exceed 45 milligrams per day. Thus, the available data support an adequate margin of safety for the human use of FD&C Yellow No. 6.

VII. FDA'S Evaluation of the Possible Risks Presented by Carcinogenic Constituents of FD&C Yellow No. 6

A. Background

During the safety review, the agency developed new methodology for determining trace levels of unsulfonated impurities in water-soluble color additives (Refs. 23 and 24). As reported in the **Federal Register** of September 4, 1985 (50 FR 35774), the application of this methodology to the analysis of FD&C Yellow No. 5 detected six carcinogenic impurities present in that color additive. FD&C Yellow No. 6 was also examined using the same methodology because it shares a common intermediate with FD&C Yellow No. 5 and is manufactured in a similar manner. Analysis of commercial, certified batches of FD&C Yellow No. 6 revealed five of the same six carcinogenic impurities detected in FD&C Yellow No. 5. The carcinogenic impurities that the agency found in some batches of FD&C Yellow No. 6 were aniline, azobenzene, 4-aminobiphenyl, 1,3-diphenyltriazene, and 4-aminoazobenzene.

The results of the analysis of representative samples from certified batches of FD&C Yellow No. 6 are summarized in Table III below. The concentrations of the impurities are expressed in parts per billion. The lower detection limit mentioned in the table is the approximate concentration of the impurity that causes a response on the chromatogram that is visible above the background. This limit is less than the concentration that will produce a response that can be reliably quantitated as determined by statistical analysis. The agency is continuing to develop methodology with the goal of improving quantitation of some of these impurities at lower concentrations. New § 74.706 as set forth below establishes specifications that would limit the concentrations in future batches for the five impurities detected in FD&C Yellow No. 6.

In contrast to FD&C Yellow No. 5, analysis of batches of FD&C Yellow No. 6 did not reveal benzidine in detectable amounts. However, benzidine is likely to be present below the level of analytical sensitivity in some of those batches analyzed because of the similarity in the manufacturing process and the intermediates with FD&C Yellow No. 5. Future batches of FD&C Yellow No. 6 could possibly contain levels of benzidine similar to those found in some batches of FD&C Yellow No. 5. Therefore, because of this possibility, the agency is placing a limitation on the level of benzidine permitted in the color additive to restrict its presence in future batches.

During the development and evaluation of the analytical methodology for two of the impurities, namely, azobenzene and 1,3-diphenyltriazene, FDA observed an additional constituent of FD&C Yellow No. 6. FDA later identified this component as the unsulfonated subsidiary color formed by the coupling of aniline and 2-naphthol to form 1-(phenylazo)2-naphthalenol, Color Index 12055, CAS Reg. No. 842-07-9. This constituent is also known as Sudan I, Sudan Yellow, and C. I. Solvent Yellow 14. (The component will be referred to as Sudan I for purposes of discussion in this order.)

TABLE III.

Constituent	Number of batches containing detectable levels of impurity	Range of impurity concentrations, parts per billion	Average impurity level, parts per billion
4-Aminoazobenzene	23 [1]	Less than 0.6-1,099 [2]	40.
4-Aminobiphenyl	23 [1]	Less than 0.1-17 [2]	4.
Aniline	34 [1]	5-422 [2]	98.
Azobenzene	29 [3]	Less than 1-230 [2] (max.) [2].	53.
Benzidine	0 (Not found) [1],	Less than 1 [2]	Less than 1.
1,3-Diphenyltriazene	2 [3]	Less than 12-15 [4]	13.
Sudan I	17 [5]	Less than 100-4,700	1,260.

[1] 34 batches tested.
[2] Lower detection limit.
[3] 37 batches tested.
[4] Visual detection limit estimated at 10 parts per billion.
[5] 23 batches tested.

B. Prior Actions by FDA

Even though appropriate testing of FD&C Yellow No. 6 does not show the color additive to be a carcinogen, the agency must still consider whether the color additive, in light of the fact that it may contain carcinogenic impurities, may be safely used in food, drugs, and cosmetics.

In the past, FDA has terminated the provisional listing of several color additives that contained or were suspected to contain a carcinogenic impurity. However, the agency no longer believes that it must refuse to list a color additive simply because it contains or is expected to contain a carcinogenic impurity. (These past agency actions are described in the preambles to the D&C Green No. 5 final rule published in the **Federal Register** of June 4, 1982 (47 FR 24278, 24280) and the FD&C Yellow No. 5 final rule in the **Federal Register** of September 4, 1985 (50 FR 35774).)

As explained in the D&C Green No. 6 final rule (47 FR 14135, 14141-14142; April 2, 1982), the agenqy has concluded that even if a color additive contains a carcinogenic impurity, the provisions of section 706(b)(5)(B) of the act do not apply unless the color additive as a whole is found to cause cancer. The agency is confident that it possesses the capacity (through the use of extrapolation procedures) to assess adequately the upper limit of risk presented by the use of a color additive that has not been shown to be a carcinogen but that does contain a carcinogenic impurity. The estimate of the risk is exaggerated because the extrapolation models used are designed to estimate the maximum risk. For this reason, the estimate can be used with confidence to conclude that a substance is safe under specific conditions of use. (FDA has also explained the basis for the approach in the advance notice of proposed rulemaking on its policy for regulating carcinogenic chemicals in food and color additives published in the **Federal Register** of April 2, 1982 (47 FR 14464).)

The agency is using the same approach for assessing the safety of the use of FD&C Yellow No. 6 that it used in its review of other color additives. The agency examined the risk associated

with the drug and cosmetic uses of D&C Green No. 6, D&C Green No. 5, D&C Red No. 6, and D&C Red No. 7 (47 FR 57681; December 28, 1982), which contain minor amounts of *p*-toluidine. None of these color additives had been shown to be carcinogenic by appropriate bioassays. FDA concluded that the use of each of these color additives in drugs and cosmetics is safe.

The agency's position is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which, as explained above, contains a carcinogepic chemical but has not itself been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list D&C Green No. 5, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulations.

Because FD&C Yellow No. 6 has not been shown to cause cancer, the anticancer clause does not apply to it. FDA has evaluated the safety of this additive under the general safety clause, using risk assessment procedures to estimate the upper bound limit of risk presented by the carcinogenic chemicals that may be present as impurities in the additive, and has concluded that the additive is safe under the proposed conditions of use.

The risk assessment procedure used has two aspects: (1) Assessment of the probable exposure to the impurity from the proposed use of the additive, and (2) extrapolation of the risk observed in the animal bioassays of the impurities to the conditions of probable human exposure.

C. Exposure to Carcinogenic Impurities in FD&C Yellow No. 6

The agency has estimated the maximum risk from exposure to the carcinogenic impurities that may result from general use of FD&C Yellow No. 6 in food, drugs, and cosmetics.

FDA certified an average of 1.2 million pounds of FD&C Yellow No. 6, over 341,000 pounds of FD&C Yellow No. 6 lakes, and just under 2,000 pounds of D&C Yellow No. 6 lakes per year over the 5-year period from 1978 through 1982. Poundage certified in 1983 was just over 1 million pounds of FD&C Yellow No. 6; over 379,000 pounds of FD&C Yellow No. 6 lakes, and over 200 pounds of D&C Yellow No. 6 lakes (Ref. 26). For the years 1984 and 1985, the average poundage certified was over 1 million pounds for FD&C Yellow No. 6, over 433,000 pounds for FD&C Yellow No. 6 lakes, and over 2,000 pounds for D&C Yellow No. 6 lakes. FD&C Yellow No. 6 lakes are made from certified batches of FD&C Yellow No. 6. In the past, D&C Yellow No. 6 lakes could have been made from batches of the color additive that had not been certified. (As discussed below, this practice will no longer be allowed.) Currently, the lakes are also subject to certification.

Based on certified poundage data for the last 14 years, the agency projects certification of approximately 1.4 million pounds per year of FD&C Yellow No. 6 and its lakes by 1990 (Ref. 26). Per capita exposure to 1.4 million pounds per year of the color additive is an average of 2.8 grams per year or 7.6 milligrams per day if all is used equally by the entire U.S. population. Based upon this projection, the agency does not expect a significant change in consumer exposure to FD&C Yellow No. 6.

The agency has considered the types of products that contain FD&C Yellow No. 6 and the likely exposure to the color additive for a high user of such products. The agency concluded that, averaged over a lifetime, a high user of such products could ingest as much as 39 milligrams per day, and could be exposed to 6 milligrams per day from dermal applications. (Ref. 26 explains in detail the basis for these estimates.)

In adopting specifications for FD&C Yellow No. 6, FDA considered the concentrations of the carcinogenic impurities that were present in the certified batches of the color additive that the agency recently surveyed.

The agency developed "tentative working specifications" by identifying a concentration (in round numbers) for each impurity consistent with current good manufacturing practice, as evidenced by the surveyed batches. These levels approximate the levels of the carcinogenic impurities that were in the sample tested in the chronic toxicity studies.

FDA then estimated the maximum carcinogenic risk attributable to each impurity to evaluate whether the "tentative working specifications" were adequate. For those impurities with the greatest carcinogenic potencies, the agency revised the specification downward to the lowest level, given current knowledge, that can be practicably produced and enforced. The agency is adopting in § 74.706(b) these specifications, which are listed in the first column of Table IV.

TABLE IV.—ESTIMATED IMPURITY EXPOSURE AT THE SPECIFICATION LIMITS

Constituent	Specification (part per billion)	Per capita exposure (ng/day)[1]	High user exposure (ng/day)[1]	
			Oral	Dermal
4-Aminobi-phenyl	15	0.1	0.6	
4-Aminoazo-benzene	50	0.4	2	0.3
Aniline	250	1.9	10	
Azobenzene	200	1.5	8	
1,3-Diphenyl-triazene	40	0.3	1.5	0.2
Benzidine [2]	[3] 1	0.008	0.04	
Sudan I	10,000	80	400	

[1] ng=Nanograms (1 billionth of a gram)
[2] Not found in survey of 37 batches.
[3] The quantitation limit for benzidine is 5 parts per billion, but its presence can be visualized at 1 part per billion (Ref. 27).

A comparison of these specifications and the average impurity levels obtained by analysis of the surveyed certified batches, as shown in Table III, reveals that in most cases the average (arithmetic mean) impurity level has been far below the specifications that FDA is adopting.

Table IV also gives the estimated exposure of individuals to the impurities if each batch of the color additive contained each impurity at the maximum level allowed by the specifications. The "per capita exposure" (second column of Table IV) is calculated by multiplying the per capita exposure to FD&C Yellow No. 6 described previously (7.6 milligrams per day) by the specification for each impurity. The high user exposure (column 3) is similarly calculated by multiplying the high user exposure (39 milligrams per day by ingestion) by each specification. Systemic exposure to these impurities from dermal application will be negligible compared to ingestion because the great majority of exposure to this color additive results from its ingested uses and because only a small fraction of a dermally applied product is likely to be absorbed.

Two of the impurities, 4-aminoazobenzene and 1,3-diphenyltriazene, have been shown to be carcinogenic not only when ingested but also when applied externally to the skin. Accordingly, the agency has estimated not only the risks from systemic exposure but also those from dermal exposure. FDA has based its estimates of risk from dermal exposure on the skin painting studies and on the high user external exposure to FD&C

Yellow No. 6 (6 milligrams per day) (Ref. 26).

D. Risk Extrapolations Regarding the Potential Contaminants

The second part of the evaluation of the risk presented by the presence of the impurities is an extrapolation from the actual compound-related incidence of tumors found in animal bioassays under conditions of exaggerated exposure to the conditions of probable exposure for humans.

The agency has used estimates of carcinogenic potency and estimates of exposures to the carcinogenic impurities for high users of FD&C Yellow No. 6 (with all carcinogenic impurities at the maximum concentrations allowed by the specifications) to estimate risks for exposure to each impurity. The agency has then summed these risks to derive the maximum upper bound risk associated with lifetime exposure to FD&C Yellow No. 6.

The agency searched the scientific literature for evidence on the carcinogenicity of the impurities found in FD&C Yellow No. 6. If more than one study found one of these impurities to be carcinogenic, the agency identified the study that was most suitable to estimate risk. Although, in general, these studies were not designed to estimate risk and were often deficient under current standards, they are the only studies available and cannot be ignored. Also, the reports did not always provide all the information necessary for a risk estimate. The agency has thus attempted to make assumptions and corrections that would provide estimates that are reasonable while not underestimating the risk. These assumptions and corrections are presented more fully in the discussions of each constituent.

4-Aminoazobenzene

The agency has evaluated reports showing that 4-aminoazobenzene is carcinogenic in the diet of rats (Refs. 28 and 29), and that it is carcinogenic when applied dermally to rats (Ref. 30). The agency has developed a risk estimate from each of these studies.

A study implicating 4-aminoazobenzene as a carcinogen by dietary administration to Wistar rats was reported by Kirby et al. (Ref. 29). The study reported that 7 of the 16 animals in the treated group were found to have liver cell neoplasms after a total of 120 weeks. Six rats in this group displayed papillomas of the stomach. No information is available to determine whether any of the individual rats had neoplasms in both the liver and the stomach. Although the dose was allowed to vary throughout the experiment, the Center for Food Safety and Applied Nutrition's Quantitative Risk Assessment Committee calculated the average dose over 120 weeks to be 0.25 percent in the diet (Ref. 31).

4-Aminoazobenzene was also implicated as a carcinogen in a skin painting study in which 1.0 milliliter of a 0.2 percent acetone solution containing 4-aminoazobenzene (corresponding to a dose of 2.0 milligrams of 4-aminoazobenzene per application) was applied to the skin twice weekly on six male albino rats as a part of a larger study utilizing a number of azo compounds (Ref. 30). All six male rats in the treatment group displayed skin neoplasms after 123 weeks compared to none in the control group.

The agency has estimated that the lifetime risk of cancer from all systemic exposure to 4-aminoazobenzene (ingested and absorbed through the skin) is less than 3 in 10 billion from products containing FD&C Yellow No. 6 (Refs. 31 and 32). The data indicate, however, that 4-aminoazobenzene may be a more potent carcinogen at the site of application to the skin than when absorbed systemically. The agency has estimated that the lifetime risk of skin cancer from dermal application of products containing 4-aminoazobenzene is less than 6 in 1 billion (Refs. 31 and 32). Because the risk estimate for dermally applied products is larger than for ingested products, FDA is using this higher estimate to evaluate total risk.

4-Aminobiphenyl

A number of studies in different species have been performed on 4-aminobiphenyl. The agency has chosen a dog study reported both by Block et al. and by Rippe et al. for quantitative risk assessment because the data on this study yield a higher risk estimate than data from other studies (Refs. 33, 34, and 35).

In this study, 24 pure-bred female beagle dogs were administered 4-aminobiphenyl orally, by capsule, at a dosage level of 5 milligrams per kilogram body weight for 5 days a week. Cystoscopic examinations were made routinely starting at 16 months and continuing up to 41 months after commencement of treatment. Diagnoses at 24 months showed that 22 of 24 treated dogs had bladder papillomas. Because this incidence is so high, data at later times show essentially the same incidence. Data at earlier times show a lower incidence, proportional to the lesser exposure time. The agency concludes that data obtained at 24 months are the most reliable for risk assessment because, among other reasons, more complete histopathology was performed at this time (Ref. 35).

Under circumstances in which lifetime risk must be estimated from studies that are performed for less than a lifetime, the data must be corrected to account for the fact that the animals were at risk for less than a lifetime. Typically, tumor incidence has been thought to be proportional to some power of time (Ref. 36). The agency believes that in the absence of specific data, it is reasonable in these circumstances to make adjustments based on a model that uses the third power of the time exposed (Refs. 35 and 36).

Because 24 months represent approximately one-fifth of the lifetime of a beagle dog, the Quantitative Risk Assessment Committee has corrected for the rapid induction of these neoplasms in the calculation of lifetime risk. Extrapolating directly from the data and making a correction for less than lifetime exposure, the agency estimates that the lifetime risk of cancer from systemic exposure to 4-aminobiphenyl in products containing FD&C Yellow No. 6 is less than 3 in 10 million (Refs. 32 and 35).

Aniline

Data reported by NCI demonstrated that aniline was carcinogenic to the spleen of Fischer 344 rats (Ref. 37). This finding has subsequently been verified by a dietary study performed by the Chemical Industry Institute of Toxicology (CIIT) using the same strain of rat (Ref. 38). FDA used data from the CIIT study to estimate that the lifetime risk of cancer from systemic exposure to aniline in products containing FD&C Yellow No. 6 is less than 1 in 10 billion (Refs. 32 and 39).

Azobenzene

In an NCI-sponsored bioassay reported in 1979, azobenzene induced a dose-related increase in the incidence of sarcomas of the abdominal cavity, particularly the spleen, in both sexes of Fischer 344 rats (Ref. 40). Three groups of animals (0, 200, and 400 parts per million in the diet) per sex were used in the study. From this study, the agency estimates that systemic exposure to azobenzene in products containing FD&C Yellow No. 6 presents a lifetime risk of less than 8 in 10 billion (Refs. 32 and 41).

1,3-Diphenyltriazene

The agency has evaluated reports showing that 1,3-diphenyltriazene is carcinogenic in the diet, and that it is carcinogenic when applied dermally. A study performed by Otsuka (Ref. 42),

while deficient in certain aspects, showed that 1,3-diphenyltriazene produced forestomach tumors in mice upon dietary exposure. The compound was administered in the diet at a concentration of 0.04 percent for 483 days. Although this dietary study is quite old and was terminated after 16 months, the agency believes that it is usable if corrected for less than lifetime exposure. Assuming the average lifetime of a mouse is 24 months, the agency has corrected for less than lifetime exposure by assuming the risk of cancer increases as the third power of the time exposed (Refs. 36 and 44). Therefore, the agency has used a correction factor of 3.4., i.e., $(24 \text{ months}/16 \text{ months})^3$, which increases the estimated risk.

Using this correction, the agency estimates that systemic exposure to 1,3-diphenyltriazene from products containing FD&C Yellow No. 6 presents a lifetime risk of less than 2 in 1 billion (Refs. 32 and 44).

A lifetime skin painting study using 1,3-diphenyltriazene on mouse skin was performed by Kirby (Ref. 43). This skin study involved a twice weekly application of a 5 percent solution of the test compound in acetone. In 16 mice surviving more than 300 days, 3 developed squamous cell papilloma, and 3 developed squamous cell carcinoma. One mouse that developed a carcinoma could not be identified as part of this experiment or a parallel experiment. The agency has assumed that this mouse was part of this experiment so as not to underestimate risk. As was often the case in the 1940's, when this study was conducted, the amount of solution applied to the skin of the animals was not accurately measured and thus not reported for this experiment. The failure to measure and to report this information creates problems in conducting a quantitative risk assessment. However, in later years, the standard protocol for this kind of study in mice became the application of 0.20 milliliter of solution to the skin. Because the agency does not know whether as much as 0.20 milliliter was applied, it has made a more conservative assumption that 0.10 milliliter was used to estimate the risk. Using this procedure, the agency estimates that dermal exposure to 1,3-diphenyltriazene from products containing FD&C Yellow No. 6 presents a lifetime risk of less than 2 in 100 billion (Refs. 32 and 44).

Benzidine

FDA used a human epidemiology study by Zavon (Ref. 45) and a study performed by Rhinde and Troll in the rhesus monkey (Ref. 46) as the basis for a quantitative risk assessment on benzidine.

Zavon attempted to obtain good data on exposure to benzidine by analyzing the urine of workers in a plant that manufactures this substance. The workers were monitored until a number of them were diagnosed as having bladder neoplasms. Urine levels of benzidine in workers were measured before each work shift, after each work shift, and on every Monday morning. Average levels were: before work, 0.01 milligram per liter; after work, 0.04 milligram per liter; and on Monday morning before work, somewhat below 0.005 milligram per liter.

No controlled study with the administration of benzidine and the concomitant measurement of benzidine in the urine in humans has been performed. Thus, the conversion from urine concentration to total exposure cannot be made from human data alone. However, the Rhinde and Troll study related ingestion of benzidine to amounts of benzidine and monoacetylbenzidine in the urine of rhesus monkeys. The agency believes it is reasonable to use this study to relate urine concentration to exposure for humans (Ref. 46). This procedure yields a higher risk estimate than if the risk was estimated solely from an animal feeding study and thus it is less likely to underestimate risk.

In the Rhinde and Troll study, benzidine was administered orally to Rhesus monkeys, and the 72-hour urine collection was analyzed for benzidine and monoacetylbenzidine. In two trials, the amount of benzidine and monoacetylbenzidine excreted in the urine was 1.4 percent and 1.5 percent of the initial input. The agency used these data and applied a safety factor of two to compensate for uncertainties, to estimate that the amount of benzidine and monoacetylbenzidine excreted in the urine of humans is approximately 3 percent of that consumed. The agency then calculated that the average human worker in the Zavon study was exposed to approximately 0.8 milligram benzidine per work day.

The agency estimated systemic exposure to benzidine based on the two studies discussed above. The potential lifetime upperbound risk, if benzidine is present in products containing FD&C Yellow No. 6, is estimated to be 3 in 10 million (Refs. 32 and 47).

Sudan I

In an NTP-sponsored bioassay reported in 1982, Sudan I produced neoplastic nodules of the liver in rats (Ref. 25). Three groups of animals (0, 250, and 500 parts per million in the diet) per sex were used in the study. Although Sudan I was not designated as a carcinogen by the agency's Cancer Assessment Committee, a worst case estimate was made. Based on the data reported in the NCI/NTP study, FDA estimated that if Sudan I were a carcinogen, the lifetime risk of cancer from systemic exposure to Sudan I (at the specification limit shown in Table IV) in products containing FD&C Yellow No. 6 would be less than 4 in 100 million (Ref. 48).

E. Cumulative Risk Estimates Regarding the Potential Contaminants

The agency, in evaluating FD&C Yellow No. 5, established a precedent by setting specifications for a color additive with multiple carcinogenic constituents (50 FR 35774). The agency used the same procedure to evaluate the safety of FD&C Yellow No. 6 because it has to consider the most appropriate way to evaluate the risk from consuming small amounts of several carcinogenic agents stimultaneously.

The Office of Science and Technology Policy discussed the issue of exposure to multiple carcinogenic agents in a document entitled "Chemical Carcinogens; A Review of the Science and Its Associated Principles" (50 FR 10371, 10394; March 14, 1985) as follows:

> Since people are exposed to many different agents at the different times in different sequences, the effect of multiple agents on carcinogenesis is of major concern. However, there is little information of general import in the field. Models for interaction are generally limited by lack of information on dose-response curves for carcinogens in the area of interest. The great number of permutations of possible agents and doses makes understanding interaction of multiple agents very difficult.
>
> In general, the action of two or more agents can be additive (if the agents are given in a dose range where the biological response is a linear function of dose) or multiplicative (if the response is a simple exponential response to dose), synergistic (greater than expected) or antagonistic (less than expected.

The agency knows of no method whereby potential multiplicative, synergistic, or antagonistic interactions can be incorporated in to a generalized risk assessment process. Furthermore, at the dose levels under consideration (far below those having measurable pharmacologic or physiologic activity), the agency sees no reason to consider synergistic or antagonistic interactions. When one extrapolates carcinogenicity data downward to very low doses, one is, in effect, assuming that the carcinogens are acting independently, and that no interactions occur. Thus, if the probability of developing cancer

from one substance is independent of the probability of developing cancer from another substance, then the probability of developing cancer from either substance may be obtained from summing the individual probabilities. Therefore in the absence of specific information on the interactions among the carcinogenic impurities, the agency believes that, operationally, the risks incurred from the presence of multiple carcinogenic impurities in a color additive or food additive can be considered independent, and that the estimated risks should be summed.

Table V shows the total upper bound risk estimated by summing the risk estimates from the six detected carcinogenic impurities when present at their highest level, consistent with specifications in the new § 74.706, to be less than 3 in 10 million.

Table V—Upper Bound Risk Estimates Based on Specifications for Carcinogenic Impurities in FD&C Yellow No. 6

Constituent	Lifetime cancer risk
4-Aminoazobenzene	0.000000006 (6×10^{-9})
4-Aminobiphenyl	0.0000003 (3×10^{-7})
Aniline	0.00000000001 (1×10^{-11})
Azobenzene	0.0000000008 (8×10^{-10})
1,3-Diphenyltriazine	0.000000002 (2×10^{-9})
Sudan I	0.00000004 (4×10^{-8})
Sum[1]	0.0000003 (3×10^{-7})

[1] In summing risk estimates, numbers have been rounded off to the nearest significant figure.

The agency emphasizes that these upper bound risk estimates are worst case estimates that are used to assure that there is a reasonable certainty that use of an additive will not cause harm. They are not intended to predict an actual risk. Consequently, several assumptions used for the estimate tend to overestimate rather than underestimate risk. For example, the linear-at-low-dose model used for these calculations to extrapolate risk to low-dose exposure is a conservative model.

Furthermore, the agency's risk estimates are based on the assumption that all carcinogenic impurities are present at the maximum concentrations allowed by the regulation. In reality, any batch with any impurity concentration above a specification would be rejected while batches with lower concentrations would be allowed. Therefore, unless all batches of certified color additive have impurity concentrations exactly at the specification limits, the average concentration of each impurity will be lower than the maximum allowed.

This fact is exemplified in Table 111, which shows that the average concentration of all of the impurities was well below the concentration specified in the regulation, even though particular batches did exceed these specifications.

Finally, the agency points out that, in the recent carcinogenicity studies in rats and mice at very high dietary levels (5 percent), much higher than human dietary exposure, FD&C Yellow No. 6 did not induce cancer. Moreover, the agency concludes that the levels of the impurities found in FD&C Yellow No. 6 are so low that under no circumstances could a bioassay detect a carcinogenic effect from these impurities.

The agency has considered the potential presence of these impurities in all other color additives as part of its evaluation of FD&C Yellow No. 6. At present, the agency can only estimate risks for products containing both FD&C Yellow No. 6 and FD&C Yellow No. 5. The cumulative risk from these two color additives would be less than 7 in 10 million.

D&C Red No. 33, which is currently provisionally listed and under review, is expected to contain some or all of the impurities found in FD&C Yellow No. 6. However, exposure to these impurities from D&C Red No. 33 will depend on whether it is permanently listed and, if so, what specifications the agency sets for the additive. Thus, the agency cannot make reasonable estimates of exposure to the impurities in this additive until all remaining issues affecting decisions on this additive are resolved.

The agency believes that the maximum risk to consumers from the use of FD&C Yellow No. 6 alone or in combination with FD&C Yellow No. 5 is sufficiently low that it can conclude that the use of batches of FD&C Yellow No. 6 that meet the specifications adopted by this rule is safe. The agency will review any risk resulting from exposure to these impurities in other color additives, including D&C Red No. 33, and will take whatever regulatory action is needed to protect the public health, when sufficient information is available for an appropriate decision.

VIII. Possible Allergic Reactions to FD&C Yellow No. 6

A. Discussion of Problems

Several published articles report allergic-type reactions to FD&C Yellow No. 6 (Refs. 49 through 56). One of these, a case study reported by Jenkin, P. et al. (Ref. 56), was cited as evidence of the allergenic nature of FD&C Yellow No. 6 in the December 14, 1984, Public Citizen petition concerning the remaining 10 provisionally listed colors. The agency in denying that petition had noted that "[T]he cited article is an isolated medical case report of an immunosuppressed, severely ill patient who was observed to experience gastrointestinal symptoms from sunset yellow powder (presumably uncertified FD&C Yellow No. 6) taken by mouth." The agency stated that it "did not consider this single case report to provide a basis for concluding that FD&C Yellow No. 6 is an allergen." This information, however, together with the structural similarity of FD&C Yellow No. 6 to FD&C Yellow No. 5, which has also been reported to cause allergic-type reactions, prompted the agency to review all available information on allergic-type reactions related to the consumption of the color additive.

Sensitivity to FD&C Yellow No. 6 has been reported to occur slightly less frequently than does sensitivity to FD&C Yellow No. 5. In a case report by Chaffee and Settipane (Ref. 50) and in a clinical study by Weber et al. (Ref. 51), evidence of asthmatic reactions to the color additive was reported. Studies by Michelsson and Juhlin (Ref. 52) and Thune and Granholt (Ref. 53) suggested that patients could develop urticaria from azo dyes such as FD&C Yellow No. 6. In another report, Michelsson et al. (Ref. 54) studied several patients with allergic vascular purpura hypersensitivity reactions to determine their sensitivity to azo dyes. Trautlein and Mann (Ref. 55) reported a case of anaphylactic shock due to exposure to FD&C Yellow No. 5 and FD&C Yellow No. 6 in soap used for a cleansing enema. The patient was reported to be sensitive to both color additives upon subsequent testing. Jenken et al. (Ref. 56) reported a case of gastrointestinal symptoms (pain and vomiting) possibly associated with ingestion of a medication containing FD&C Yellow No. 6.

Many substances to which people are exposed, including those occurring naturally, may elicit allergic-type reactions in susceptible individuals. A great variety of materials has been implicated in allergic-type reactions, e.g., dusts of various kinds, pollens, feathers, mold spores, insect fragments, bee stings, seeds, dander, and a number of foods (Ref. 49). Hypersensitive persons may react by exhibiting a number of responses, including angioedema, urticaria, asthma, pruritis, rhinitis, and anaphylaxis.

B. Views and Recommendations of FDA's Advisory Committee on Hypersensitivity to Food Constituents

FDA announced in the **Federal Register** of April 16, 1984 (49 FR 15021), the establishment of the Ad Hoc Advisory Committee on Hypersensitivity to Food Constituents (the Committee) by the Secretary of

Health and Human Services. At the first meeting held September 12 and 13, 1985, the Committee was charged to (1) review data on the incidence and severity of hypersensitivity of food constituents; (2) determine criteria to assess the magnitude of hypersensitivity reactions to food constituents; (3) identify classes of food constituents or specific food constituents for further review, (4) indicate, if possible, the mechanism of action for the identified constituents or classes of constituents; (5) assess the impact of hypersensitivity problems on public health; and (6) evaluate the effectiveness of labeling or alternative strategies for the identified health concerns.

During its meeting on May 8 and 9, 1986, the Committee considered information on the sensitivity of humans to four specific food and color additives. Tartrazine (FD&C Yellow No. 5), an azo dye, was one of the substances considered. The Committee also reviewed data on the incidence and severity of hypersensitivity to aspirin and to the color additive FD&C Yellow No. 5, and considered the issue of whether there was an association between the two in regard to hypersensitivity. FD&C Yellow No. 6 is also an azo dye and is structurally similar to FD&C Yellow No. 5. Therefore, the agency believes that the observations and recommendations the Committee made concerning FD&C Yellow No. 5 are relevant for FD&C Yellow No. 6.

The literature reports of cross sensitivity to aspirin and FD&C Yellow No. 5 have served as the bases for requiring a label warning on drug package inserts. However, the Committee pointed out flaws in the studies reported in the literature that have been used by FDA over the years as evidence for the view that people who are sensitive to aspirin may also be sensitive to FD&C Yellow No. 5.

Based upon the Committee's recent review of the literature on FD&C Yellow No. 5, the Committee concluded that: (1) there is no evidence in the information reviewed to show that FD&C Yellow No. 5 as a food coloring ingredient constitutes a hazard to the general public when used at its current levels, (2) there is some evidence to indicate that FD&C Yellow No. 5 may be the etiologic agent in cases of urticaria in a small subset of the population and the reactions are mild; (3) there is no conclusive data to indicate that FD&C Yellow No. 5 can provoke attacks of bronchial asthma, or that other azo dyes are likely to cause reactions in the asthmatic population, (4) the current labeling declaration practice should be continued to allow individuals with suspected FD&C Yellow No. 5 sensitivity to make prudent decisions, and (5) the current precaution stating that FD&C Yellow No. 5 sensitivity is "frequently seen in patients who also have aspirin sensitivity" be removed from the label. The Committee made the fifth recommendation because the subset of the population sensitive to aspirin is small and the subset of the aspirin-sensitive population who are also sensitive to Yellow No. 5 is also small.

C. Agency Conclusions Concerning Allergenicity of FD&C Yellow No. 6

In evaluating the reports described above and the recommendations of the Committee, the agency concludes that while an allergic-type sensitivity to FD&C Yellow No. 6 may occasionally occur, there is no evidence in the available information on FD&C Yellow No. 6 that demonstrates a significant hazard to the general population when the color additive is used at current levels and in the manner now practiced. However, because there is a possible relationship between FD&C Yellow No. 6 and allergic-type responses in some individuals, the agency concludes that action should be taken to inform the public of the presence of the color additive in food or drugs. These actions are discussed in greater detail below. The agency believes that these actions are consistent with the recommendations of the Committee.

There are no reports of reactions to FD&C Yellow No. 6 from external application. However, as of May 31, 1976, all newly ordered labels for cosmetics have been required to declare the specific color additives present. Under these circumstances, persons who may be hypersensitive to FD&C Yellow No. 6 will, by careful review of the product labeling, be able to avoid cosmetic products containing the color. The agency concludes, therefore, that no further action is required as to cosmetics in general or for externally applied drugs.

Declaration of Food Labeling

Persons who believe that they are intolerant of FD&C Yellow No. 6 are likely to be selective in the types of foods that they use and, with appropriate label declaration, would be able to avoid the potential hazard of allergic-type reactions to the color additive in food by reading the label. Accordingly, a label declaration of the presence of FD&C Yellow No. 6 in food for humans, whether added as the straight color additive, a mixture, or a lake, would enable persons who may be allergic to FD&C Yellow No. 6 to minimize exposure to the color additive.

The basis for this action is the provision of section 706(b)(3) of the act, which provides that regulations for the listing of a color additive shall "prescribe the conditions under which such additive may be safely employed for such use or uses (including but not limited to, * * * and directions or other labeling or packaging requirements for such additive)." FD&C Yellow No. 6 has been reported to be associated with the production of allergic-type responses in humans and thus the agency finds that the requirement for label declaration of the color additive on food, including butter, cheese, and ice cream is justified.

Because there are no reports that any color additive, including FD&C Yellow No. 6, elicits allergic-type reactions in animals, label declaration of FD&C Yellow No. 6 in animal feeds and pet food is not being required. For the above reasons, the agency concludes that labeling for food products should be revised as soon as possible (i.e., rather than the uniform effective date of January 1, 1989, established by a rule that FDA published in the **Federal Register** of September 25, 1986 (51 FR 34085)) to include the declaration of FD&C Yellow No. 6 among the list of ingredients. The effective date for this final regulation concerning labeling will be November 19, 1987. This regulation covers the ingredient labeling of all affected products initially introduced or initially delivered for introduction into interstate commerce after the effective date. The agency believes this delayed effective date will provide sufficient time to permit use of current stocks of labeling and revision of labeling to include a declaration of the presence of FD&C Yellow No. 6. Manufacturers could, of course, revise their labeling before the effective date of the regulation, and the agency encourages them to do so.

Declaration of Drug Labeling

The use of color additives in ingested drugs for human use is an old, accepted practice in the pharmaceutical industry. The use of color additives in drugs serves a necessary public health function because it permits drugs of identical size and shape to be distinguished. The distinction provided by the use of color additives provides an important quality control tool in the dispensing of drugs to prevent mixups between otherwise similarly appearing drugs. The ability to distinguish among different products is also very important to persons taking more than one drug, especially to the patient who may think

in terms of taking a drug of a particular color rather than by the name of the drug. Color additives in drugs also assist in the identification of a drug in cases of accidental overdose. Because yellow is a primary color, yellow color additives are widely used to color drugs. A substantial number of drugs would have to be reformulated if FD&C Yellow No. 6 were prohibited in drugs for human use. The considerable time and effort necessary to reformulate drug products and the loss of product identification would be unimportant if considered necessary for the protection of public health and if there were no suitable alternative course of action. However, on the basis of the current information available concerning the nature and extent of possible intolerance to FD&C Yellow No. 6, the agency believes that prohibiting all drug uses of FD&C Yellow No. 6 is not necessary and that requiring labeling similar to that for foods will ensure the protection of patients who suspect they may be intolerant of FD&C Yellow No. 6. This rulemaking is set forth below under 21 CFR Parts 74 and 201.

Under 21 CFR 201.20 (a) and (b), drug labeling is required for both prescription and over-the-counter (OTC) drug products which are administered orally, nasally, rectally, or vaginally. Topical or other externally applied drug products are not subject to these regulations. However, the drug products that are subject to this rule are required to have labeling that identifies the color additive by both of the names by which it is known, i.e., FD&C Yellow No. 6 (Sunset Yellow).

The primary basis for this action is also section 706(b)(3) of the act, as discussed above under "Declaration of Food Labeling."

IX. References

The following references have been placed on file at the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

1. Petition, Public Citizen Health Research Group, to Ban Remaining Color Additives on Provisional List, December 17, 1984.

2. Letter, Commissioner Young, Response to Public Citizen Health Research Group's Petition, June 21, 1985.

3. Memorandum, Division of Pharmacology and Toxicology, "FD&C Yellow No. 6 in Foods, Drugs, and Cosmetics," CAP 8C0066, July 11, 1969.

4. *IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals in Man: Some Azo Compounds,* "Sunset Yellow FCF," Vol. 8, December 2, 1974.

5. **Federal Register** Notice (49 FR 21594), Office of Science and Technology Policy, "Chemical Carcinogens; Notice of Review of the Science and Its Associated Principles," May 22, 1984.

6. **Federal Register** Document, 48 FR 5257, Final rule for FD&C Blue No. 2, Food and Drug Administration, February 4, 1983.

7. Gillman, J., C. Gilbert, and I. Spence, "Phaeochromocytoma in the Rat," in *Cancer,* Vol. 6, Stenart, F., Ed., J.B. Lippincott Com., pp. 494–511, 1953.

8. Shabad, L.M., "Precancerous Morphologic Lesions," *Journal of the National Cancer Institute,* Vol. 50, 6, June, 1973.

9. Hollander, C., and K. Snell, "Tumours of the Adrenal Gland," *IARC Monographs on Pathology of Tumours in Laboratory Animals: Tumors of the Rat,* Part II, Vol. 2, 1976.

10. Diener, R., V. Rac, S. Thompson, and R. Spakt, "Review of the Critical Findings Contained Within DHHS Publication No. NIH 80–1749: Bioassay of Reserpine for Possible Carcinogenicity," in *Toxicologic Pathology,* Vol. 8, The Society Toxicologic Pathologists, E.F. Stula, Ed., pp. 1–21, 1980.

11. Goodman, D., J. Ward, R. Squire, K. Chu, and M. Linhart, "Neoplastic and Nonneoplastic Lesions in Aging F344 Rats," *Toxicology and Applied Pharmacology,* 48:237–248, 1979.

12. National Toxicology Program (1981), Carcinogenesis Bioassay of FD&C Yellow No. 6 (CAS Reg. No. 2783–94–0), Technical Report No. 208, NIH Publication No. 81–1764, May 1981.

13. Gray, J.E., "Chronic Progressive Nephrosis in the Albino Rat," *CRC Critical Reviews in Toxicology,* 5:115–144, 1977.

14. Summary of Minutes from Peer Review of the Data from the Chronic Carcinogenesis Animal Bioassay of FD&C Yellow No. 6 by the Technical Reports Review Subcommittee and Panel of Experts, National Toxicology Program Board of Scientific Counselors Meeting, January 8, 1986.

15. Durand, A., M. Fisher, and M. Adams, "Histology in Rats as Influenced By Age and Diet. I. Renal and Cardiovascular Systems," *Archives of Pathology,* 77:268, 1964.

16. Squire, R.A., "Histopathological Evaluation of Female Rat Kidneys Bioassays of FD&C Yellow No. 6," submitted to CCMA, Inc., November 26, 1984.

17. Kluwe, W.M., K.M. Abdo, and J. Huff, "Chronic Kidney Disease and Organic Chemical Exposures: Evaluations of Causal Relationships in Humans and Experimental Animals," *Fundamentals of Applied Toxicology,* 4:889–901, 1984.

18. Hardisty, J.F., "Factors Influencing Laboratory Animal Spontaneous Tumour Profiles," *Toxicology Pathology,* 13:(2):95–104, 1985.

19. Peto, R., "Guidelines on the Analysis of Tumour Rates and Death Rates in Experimental Animals," *British Journal of Cancer,* Vol. 29, pp. 101–105, 1974.

20. Ishidate, M., et al., "Primary Mutagenicity Screening of Food Additives Currently Used in Japan," *Food and Chemicals Toxicology,* 22:8, 623–636, 1984.

21. Memorandum, Additives Evaluation Branch, "FD&C Yellow No. 6, Toxicological Review and Evaluation," March 17, 1986.

22. Ishidate, M., T. Sofuni, and K. Yoshikawa, "Chromosomal Aberration Tests *In Vitro* as a Primary Screening Tool for Environmental Mutagens and/or Carcinogens," *GANN Monograms of Cancer Research,* Vol. 27, 1981.

23. Memorandum, Bailey, J.E., "Determination of Unsulfonated Subsidiary Color in Commercial Batches of FD&C Yellow No. 6," CAP 8C0066, November 27, 1985.

24. Richfield-Fratz, N., J.E. Bailey, and C.J. Bailey, "Determination of Unsulfonated Aromatic Amines in FD&C Yellow No. 6 by the Diazotization and Coupling Procedure Followed by Reversed-Phase High-Performance Liquid Chromatography," *Journal of Chromatography Science,* 331:109–123, 1985.

25. National Toxicology Program Technical Report on "Carcinogenesis Bioassay of C.I. Solvent Yellow 14 (CAS No. 842–07–9) In F-344/N Rats and B6C3F Mice (Feed Study)" NTP Technical Report Series No. 226, September 1982.

26. Memorandum, Troxell, T.C., "Memorandum for the Record," CAP 8C0066, March 23, 1984.

27. Memorandum, Chemist/DCLT, "Determination of Aromatic Amines in Commercial Samples," FD&C Yellow No. 6, CAP 8C0066, February 22, 1984.

28. Kirby, A.H.M., et al., "Studies in Carcinogenesis with Azo Compounds," *Cancer Research,* 7:333, 1947.

29. Kirby, A.H.M., et al., "The Induction of Liver Tumors by 4-Aminoazobenzene and Its N,N-Dimethyl Derivative in Rats on a Restricted Diet," *Journal of Pathology and Bacteriology,* 59:1–18, 1947.

30. Fare, G., "Rat Skin Carcinogenesis by Topical Applications of Some Azo Dyes," *Cancer Research,* 26:2406, 1966.

31. Memorandum, Quantitative Risk Assessment Committee, "Report of the Committee on 4-Aminoazobenzene (Dietary and Skin Exposure)," CAP 8C0066, December 20, 1983.

32. Memorandum, Quantitative Risk Assessment Committee, "Upperbound Risks From Carcinogenic Impurities in FD&C Yellow No. 6," CAP 8C0066, February 26, 1986.

33. Rippe, D.F., et al., "Urinary Bladder Carcinogenesis in Dog: Preliminary Studies on Cellular Immunity," *Transplantation Proceedings,* 7:495–501, 1975.

34. Block, N.L., et al., "The Initiation Process and Diagnosis of Dog Bladder Cancer Induced by 4-Aminobiphenyl," *Investigative Urology,* 16:50–54, 1978.

35. Memorandum, Quantitative Risk Assessment Committee, "Report of the Committee on 4-Aminobiophenyl," CAP 8C0066, December 20, 1983.

36. Druckrey, H., "Quantitative Aspects in Chemical Carcinogenesis," U.I.C.C. Monograph Series, 7:60–78, 1967.

37. National Cancer Institute, "Bioassay of Aniline Hydrochloride for Possible. Carcinogenicity," NCI Technical Report No. 130, NCI–CG–TR–130, 1978.

38. Chemical Industry Institute of Toxicology, Research Triangle Park, NC, "104 Week Chronic Toxicity Study in Rats: Aniline Hydrochloride," Final report, January 4, 1982.

39. Memorandum, Quantitative Risk Assessment Committee, "Committee Report On Aniline," CAP 8C0066, March 8, 1983.

40. National Cancer Institute, "Bioassay of Azobenzene for Possible Carcinogenicity," NCI Technical Report No. 154, NCI–CG–TR–154, 1979.

41. Memorandum, Quantitative Risk Assessment Committee, "Committee Report on Azobenzene," CAP 8C0066, December 20, 1983.

42. Otsuka, I., "Uber die Experimentelle Papillomerzeugung im Vormagender Mausen Durch Diozoaminobenzol," *GANN*, 29:209–214, 1935.

43. Kirby, A.H.M., et al., "Further Experiments in Mice With *p*-Diazoaminobenzene," *British Journal of Cancer*, 2:290–294, 1948.

44. Memorandum, Quantitative Risk Assessment Committee, "Committee Report on 1-3-Diphenyltriazene (Dietary and Dermal Exposure)," CAP 8C0066, December 20, 1983.

45. Zavon, M.R., et al., "Benzidine Exposure as a Cause of Bladder Tumors," *Archives of Environmental Health*, 27:1–7, 1973.

46. Rhinde, E., and W. Troll, "Metabolic Reduction of Benzidine Azo Dyes to Benzidine in the Rhesus Monkey," *Journal of the National Cancer Institute*, 55:181–182, 1975.

47. Memorandum, Quantitative Risk Assessment Committee, "Committee Report on Benzidine," CAP 8C0066, December 20, 1983.

48. Memorandum, Lorentzen, R.J., "Sudan I in FD&C Yellow No. 6," CAP 8C0066, March 4, 1986.

49. FD&C Yellow No. 5, "Labeling in Food and Drugs for Human Use and Restriction on Use in Certain Human Drugs," Docket No. 77N–0009, February 4, 1977 (42 FR 6835).

50. Chaffee, F.H., and G.A. Settipane, "Asthma Caused By FD&C Approved Dyes," *Journal of Allergy*, 40:2:65–71, 1967.

51. Weber, R.W., et al., "Incidence of Bronchoconstriction Due to Aspirin, Azo Dyes, Non-Azo Dyes, and Preservatives in a Population of Perennial Asthmatics," *Journal of Allergy and Clinical Immunology*, 64:32–37, 1979.

52. Michelsson, G., and L. Juhlin, "Urticaria Induced By Preservatives and Dye Additives in Food and Drugs," *British Journal of Dermatology*, 88:525–532, 1973.

53. Thune, P., and A. Granholt, "Provocation Test With Antiphlogistica and Food Additives in Recurrent Urticaria," *Dermatologica* (Basel), 151:(6):360–367, 1975.

54. Michelsson, G., L. Pattersson, and L. Juhlin, "Purpura Caused By Food and Drug Additives," *Archives of Dermatology*, 109:49–52, 1974.

55. Traulein, J., and W.J. Mann, "Anaphylactic Shock Caused By Yellow Dye (FD&C Yellow No. 6) in an Enema" (Case Report), *Annals of Allergy*, 41:28–29, 1978.

56. Jenken P., R. Michelsson, and P.A. Emerson, "Adverse Drug Reaction to Sunset Yellow in Rifampicin/Isoniazid Tablet," *Lancet*, 2:285, 1982.

X. Conclusions

The agency concludes that FD&C Yellow No. 6 is safe for general use in food, drugs, and cosmetics and that certification is necessary for the protection of the public health. Therefore, the agency is adding 21 CFR 74.706, 74.1706, and 74.2706 to permit these uses.

The final chronic toxicity study reports, interim reports, and the agency's toxicology evaluations of these studies supporting the safety of the color additive for all uses are on file at the Dockets Management Branch (address above). They may be reviewed between 9 a.m. and 4 p.m., Monday through Friday.

The agency is describing the color additive in this regulation according to the current Chemical Abstracts nomenclature, which differs somewhat from the nomenclature FDA previously used.

The agency is establishing new chemical specifications for these listings that identify the color additive more precisely than those specifications currently in § 82.706.

The agency concludes that it is necessary to include in the listing regulations for FD&C Yellow No. 6 a brief description of its manufacturing process to ensure the safety of the color additive. FDA has included that description to define as closely as possible the color additive that has been tested and shown to be safe. The agency is doing so because use of a different manufacturing process is likely to produce different impurities that have not been considered in establishing specifications for this color additive. The agency is not able at this time to set specifications that would control the presence of all such impurities. FDA is willing to consider petitions for alternative manufacturing processes, but those petitions should contain evidence that demonstrates that those processes will not produce impurities that will make use of the color additive unsafe.

The agency has contracted with the National Academy of Sciences/National Research Council (NAS/NRC) to develop appropriate specifications for color additives for use in food as part of the Food Chemicals Codex. Similarly, appropriate specifications for color additives for use in drugs and cosmetics will be developed following the general guidelines used by NAS/NRC in its evaluation of color additives used in food. The agency concludes that specifying, through a general description, the manufacturing process in the regulations for this color additive will provide an adequate assurance of safety until suitable specifications can be developed.

The agency finds that because of the presence or possible presence of carcinogenic impurities in the color additive, specifications for impurities are necessary to protect the public health. Therefore, specifications as listed in Table IV, column 2 of this preamble are included in the regulation.

In the past, D&C lakes have been permitted to be prepared from uncertified straight color additives. The resulting lakes would subsequently be certified. However, to assure that all lakes (FD&C and D&C) meet the specification limits for the carcinogenic constituents and that the use of lakes remains consistent with the risk assessment, the agency is establishing the requirement that all lakes of FD&C Yellow No. 6 be prepared from certified batches of the straight color additive. Accordingly, § 82.706 is amended to reflect this requirement.

Because the agency found reports that FD&C Yellow No. 6 may cause allergic-type responses in a small percentage of the population, a label declaration of the additive is being required for its use in human foods and ingested drugs.

The agency has determined under 21 CFR 25.24(b)(3) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

XI. Objections

Any person who will be adversely affected by this regulation may at any time on or before December 19, 1986, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in

response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register.**

List of Subjects

21 CFR Part 74

Color additives, Food, Cosmetics, Drugs, Medical devices.

21 CFR Part 81

Color additives, Food, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Food, Cosmetics, Drugs.

21 CFR Part 201

Drugs, Labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 74, 81, 82, and 201 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 74 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

2. By adding § 74.706 to read as follows:

§ 74.706 FD&C Yellow No. 6.

(a) *Identity.* (1) The color additive FD&C Yellow No. 6 is principally the disodium salt of 6-hydroxy-5-[(4-sulfophenyl)azo]-2-naphthalenesulfonic acid (CAS Reg. No. 2783–94–0). The trisodium salt of 3-hydroxy-4-[(4-sulfophenyl)azo]-2,7-naphthalenedisulfonic acid (CAS Reg. No. 50880–65–4) may be added in small amounts. The color additive is manufactured by diazotizing 4-aminobenzenesulfonic acid using hydrochloric acid and sodium nitrite. The diazo compound is coupled with 6-hydroxy-2-naphthalene-sulfonic acid. The dye is isolated as the sodium salt and dried. The trisodium salt of 3-hydroxy-4-[(4-sulfophenyl) azo]-2,7-naphthalenedisulfonic acid which may be blended with the principal color is prepared in the same manner except the diazo benzenesulfonic acid is coupled with 3-hydroxy-2,7-naphthalenedisulfonic acid.

(2) Color additive mixtures for food use made with FD&C Yellow No. 6 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring foods.

(b) *Specifications.* The color additive FD&C Yellow No. 6 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by current good manufacturing practice:

Sum of volatile matter (at 135 °C) and chlorides and sulfates (calculated as sodium salts), not more than 13 percent.
Water insoluble matter, not more than 0.2 percent.
Sodium salt of 4-aminobenzenesulfonic acid, not more than 0.2 percent.
Sodium salt of 6-hydroxy-2-naphthalenesulfonic acid, not more than 0.3 percent.
Disodium salt of 6,6'-oxybis[2-naphthalenesulfonic acid], not more than 1 percent.
Disodium salt of 4,4'-[1-triazene-1,3-diyl]bis[benzenesulfonic acid], not more than 0.1 percent.
Sum of the sodium salt of 6-hydroxy-5-(phenylazo)-2-naphthalenesulfonic acid and the sodium salt of 4-[(2-hydroxy-1-naphthalenyl)azo]benzenesulfonic acid, not more than 1 percent.
Sum of the trisodium salt of 3-hydroxy-4-[(4-sulfophenyl)azo]-2,7-naphthalenedisulfonic acid and other higher sulfonated subsidiaries, not more than 5 percent.
4-Aminoazobenzene, not more than 50 parts per billion.
4-Aminobiphenyl, not more than 15 parts per billion.
Aniline, not more than 250 parts per billion.
Azobenzene, not more than 200 parts per billion.
Benzidine, not more than 1 part per billion.
1,3-Diphenyltriazene, not more than 40 parts per billion.
1-(Phenylazo)-2-naphthalenol, not more than 10 parts per million.
Lead (as Pb), not more than 10 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color, not less than 87 percent.

(c) *Uses and restrictions.* The color additive FD&C Yellow No. 6 may be safely used for coloring foods (including dietary supplements) generally in amounts consistent with current good manufacturing practice, except that it may not be used to color foods for which standards of identity have been promulgated under section 401 of the act unless added color is authorized by such standards.

(d) *Labeling requirements.* (1) The label of the color additive and any mixtures intended solely or in part for coloring purposes prepared therefrom shall conform to the requirements of § 70.25 of this chapter.

(2) Foods for human use that contain FD&C Yellow No. 6, including butter, cheese, and ice cream, shall specifically declare the presence of FD&C Yellow No. 6 by listing the color additive as FD&C Yellow No. 6 among the list of ingredients.

(e) *Certification.* All batches of FD&C Yellow No. 6 shall be certified in accordance with regulations in Part 80 of this chapter.

3. By adding § 74.1706 to read as follows:

§ 74.1706 FD&C Yellow No. 6.

(a) *Identity and specifications.* (1) The color additive FD&C Yellow No. 6 shall conform in identity and specifications to the requirements of § 74.706(a)(1) and (b).

(2) Color additive mixtures for drug use made with FD&C Yellow No. 6 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

(b) *Uses and restrictions.* FD&C Yellow No. 6 may be safely used for coloring drugs generally in amounts consistent with current good manufacturing practice.

(c) *Labeling requirements.* (1) The label of the color additive and any mixtures intended solely or in part for coloring purposes prepared therefrom shall conform to the requirements of § 70.25 of this chapter.

(2) The label of over-the-counter and prescription drug products intended for human use administered orally, nasally, rectally, or vaginally containing FD&C Yellow No. 6 shall specifically declare the presence of FD&C Yellow No. 6 by listing the color additive using the names FD&C Yellow No. 6 and Sunset Yellow. The label shall bear a statement such as "Contains FD&C Yellow No. 6 (Sunset Yellow) as a color additive" or "Contains color additives including FD&C Yellow No. 6 (Sunset Yellow)." The labels for certain drug products subject to this labeling requirement that are also cosmetics, such as antibacterial mouthwashes and fluoride toothpastes, need not comply with this requirement provided they comply with the requirements of § 701.3 of this chapter.

(d) *Certification.* All batches of FD&C Yellow No. 6 shall be certified in accordance with regulations in Part 80 of this chapter.

4. By adding § 74.2706 to read as follows:

§ 74.2706 FD&C Yellow No. 6.

(a) *Identity and specifications.* The color additive FD&C Yellow No. 6 shall conform in identity and specifications to

the requirements of § 74.706 (a)(1) and (b).

(b) *Uses and restrictions.* FD&C Yellow No. 6 may be safely used for coloring cosmetics generally in amounts consistent with current good manufacturing practice.

(c) *Labeling.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(d) *Certification.* All batches of FD&C Yellow No. 6 shall be certified in accordance with regulations in Part 80 of this chapter.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOOD, DRUGS, AND COSMETICS

5. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

6. In § 81.1 *Provisional lists of color additives* by removing the entry for "FD&C Yellow No. 6" from the table in paragraph (a).

§ 81.27 [Amended]

7. In § 81.27 *Conditions of provisional listing* by removing the entry for "FD&C Yellow No. 6" from the table in paragraph (d).

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

8. The authority citation for 21 CFR Part 82 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

9. By revising § 82.706 to read as follows:

§ 82.706 FD&C Yellow No. 6.

(a) The color additive FD&C Yellow No. 6 shall conform in identity and specifications to the requirements of § 74.706 (a)(1) and (b) of this chapter.

(b) All lakes including current D&C external D&C lakes of FD&C Yellow No. 6 shall be manufactured from previously certified batches of the straight color additive.

PART 201—LABELING

10. The authority citation for 21 CFR Part 201 is revised to read as follows:

Authority: Secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1056 as amended (21 U.S.C. 321, 352, 355, 371); 21 CFR 5.10 and 5.11; section 201.20 also issued under sec. 706, 74 Stat. 399–407 as amended (21 U.S.C. 376).

11. In § 201.20 by revising paragraph (a) to read as follows:

§ 201.20 Declaration of presence of FD&C Yellow No. 5 and/or FD&C Yellow No. 6 in certain drugs for human use.

(a) The label for over-the-counter and prescription drug products intended for human use administered orally, nasally, rectally, or vaginally containing FD&C Yellow No. 5 and/or FD&C Yellow No. 6 shall specifically declare the presence of FD&C Yellow No. 5 or FD&C Yellow No. 6 or both as a color additive using the names FD&C Yellow No. 5 and tartrazine or FD&C Yellow No. 6 and Sunset Yellow or both sets. The labeling shall bear a statement such as "Contains FD&C Yellow No. 5 (tartrazine) as a color additive," "Contains FD&C Yellow No. 6 (Sunset Yellow) as a color additive," or "Contains color additives including FD&C Yellow No. 5 (tartrazine) and FD&C Yellow No. 6 (Sunset Yellow)." The labels of certain drug products subject to this labeling requirement that are also cosmetics, such as antibacterial mouthwashes and fluoride toothpastes, need not comply with this requirement provided they comply with the requirements of § 701.3 of this chapter.

* * * * *

Dated: November 10, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86–26052 Filed 11–18–86; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Fenbendazole Blocks

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Hoechst-Roussel Agri-Vet Co., providing for safe and effective use in beef cattle of Safe-Guard.™ (fenbendazole) Enproal® molasses feedblocks as an anthelmintic.

EFFECTIVE DATE: November 19, 1986.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Hoechst-Roussel Agri-Vet Co., Route 202–206 North, Somerville, NJ 08876, filed NADA 139–189 providing for use in beef cattle of Safe-Guard.™ Enproal® molasses feedblocks as an anthelmintic. Each feedblock weighs 25 pounds and contains 750 milligrams of fenbendazole per pound. The blocks are indicated for removal and control of the lungworm *Dictyocaulus viviparus* and certain stomach and intestinal worms. The application is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(vi) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Part 520 is amended by adding new § 520.905e to read as follows:

§ 520.905e Fenbendazole blocks.

(a) *Specifications.* Each pound of molasses block contains 750 milligrams of fenbendazole.

(b) *Sponsor.* See 012799 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.275 of this chapter.

(d) *Conditions of use*—(1) *Amount.* 0.1 pound of block per 100 pounds of body

weight per day for 3 days. Total dose for the 3-day period is 2.27 milligrams of fenbendazole per pound of body weight for mature cattle.

(2) *Indications for use.* For removal and control of infections of lungworms *(Dictyocaulus viviparus)* and gastrointestinal roundworms *(Haemonchus contortus, Ostertagia ostertagi, Trichostrongylus axei, Bunostomum phlebotomum, Nematodirus helvetianus, Cooperia oncophora* and *c. punctata, Trichostrongylus colubriformis,* and *Oesophagostomum radiatum)* in beef cattle.

(3) *Limitations.* Administer free choice to beef cattle on pasture that have become accustomed to nonmedicated block feeding during an adaptation period of 12 to 19 days. Cattle must not be slaughtered within 11 days following last treatment. Animals maintained under conditions of constant worm exposure may require retreatment within 6 to 8 weeks. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

Dated: November 12, 1986.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 86-26050 Filed 11-18-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 198

[DoD Directive 6035.2]

DoD Medical Program Review Committee (MPRC)

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This part is the charter for the DoD Medical Program Review Committee (MPRC). The MPRC is being established as directed by the Secretary of Defense memorandum, dated June 20, 1986. It outlines the purpose, organization, and responsibilities of the MPRC.

EFFECTIVE DATE: October 15, 1986.

ADDRESS: Office of the Assistant Secretary of Defense (Health Affairs), Room 3E321, the Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Reynolds, telephone (202) 694-3242.

List of Subjects in 32 CFR Part 198

Organization and functions, Health care.

Accordingly, Title 32 is amended by adding Part 198 to read as follows:

PART 198—DOD MEDICAL PROGRAM REVIEW COMMITTEE (MPRC)

Sec.

198.1 Purpose.
198.2 Applicability.
198.3 Policy.
198.4 Organization, management, and responsibilities.

Authority: 5 U.S.C. Section 301; 10 U.S.C. § 113.

§ 198.1 Purpose.

In accordance with Secretary of Defense Memorandum, June 20, 1986, this part authorizes and establishes the charter for the DoD Medical Program Review Committee (MPRC).

§ 198.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), the Unified and Specified Commands, Defense Agencies, and DoD field activities—e.g., Office of Civilian Health and Medical Program of the Uniform Services (CHAMPUS) and the Defense Medical Support Activity. The term "Military Services" refers to the Army, Navy, Air Force, and Marine Corps.

§ 198.3 Policy.

The MPRC complements the Defense Resources Board by providing a balanced and integrated review of the medical portions of the Service, Defense Agency, and DoD field activity Program Objective Memorandums (POMs). This MPRC review shall be based on the Defense Guidance and policy guidance from the Assistant Secretary of Defense (Health Affairs) (ASD(HA)). The Committee shall serve as a forum for resolving program issues confronting the Military Health Services System.

§ 198.4 Organization, management, and responsibilities.

(a) MPRC membership is composed of the ASD(HA), who serves as the Chair; the Principal Deputy Director, Program Analysis and Evaluation (PA&E); the four Service Programmers; and the Director, Strategic Plans and Resources Analysis Agency. In addition, the Committee may call for expert advice from other OSD organizations, OJCS, and/or the Services. The Deputy Assistant Secretary of Defense (Health Affairs) (Medical Resources Administration) shall serve as MPRC Executive Secretary.

(b) The Committee meets throughout the year at the call of the Chair in conjunction with the Planning, Programming, and Budgeting System (PPBS) cycle to address medical program issues. The Committee shall meet:

(1) To assist the ASD(HA) in drafting medical guidance for incorporation in the Defense Guidance (DG), and to review and provide recommendations on the draft DG to the Defense Guidance Steering Group.

(2) To review inputs to the POM Preparation and Format Instructions (PPI) and make recommendations to the Executive Secretary of the Defense Resources Board before publishing the PPI.

(3) To formulate and provide additional guidance to the Services, Defense Agencies, and DoD field activities for submitting the medical portion of their POMs six weeks before the overall Service POHs.

(4) To review the medical programs of the Services, Defense Agencies, and DoD field activities. This review shall address all wartime and peacetime medical program issues across the Military Departments, Defense Agencies, and DoD field activities. Issues that may not be resolved by consensus within the Committee in time to be reflected in the final version of the Service and/or Agency POM, or on an "out-of-court" basis, may be submitted for consideration under the normal procedures of the Defense Resources Board.

(5) To provide advice and comment to the Executive Secretary of the Defense Resources Board regarding proposed Program Decision Memorandum (PDM) language.

(6) To review and assess Program Budget Decisions (PBDs) for medical programmatic impacts.

(c) After one complete PPBS cycle, the Committee shall review this charter and recommend changes as necessary.

(d) The Services, Defense Agencies, and DoD field activities shall submit their medical programs to the MPRC six weeks before the overall Service POHs are due.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-26061 Filed 11-18-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 211

Appeal of Decisions Concerning the National Forest System

AGENCY: Forest Service, USDA.

ACTION: Interim rule; request for comments.

SUMMARY: This rule revises Forest Service administrative appeal procedures to clarify procedures for acquiring information helpful to Reviewing Officers in making stay decisions; to give Reviewing Officers flexibility in making stay decisions; to provide criteria in ruling on stay decisions; and to lengthen the time allowed to make stay decisions. Public comments are invited and will be considered in promulgating a final rule, if received within 30 days of publication of this notice..

DATES: *Effective Date:* November 19, 1986. *Comment Date:* December 19, 1986.

ADDRESS: Send comments on this interim rule to Chief (1570), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

The public may inspect comments received in Room 4211, South Building, U.S. Department of Agriculture, 14th and Independence Avenue SW., Washington, DC during business hours.

FOR FURTHER INFORMATION CONTACT: Kathie Hauser, Program Analyst, National Forest System (202) 382–9346.

SUPPLEMENTARY INFORMATION:

Background

Forest Service rules at 36 CFR 211.18 establish the process and procedures by which the public may appeal a National Forest System management decision. Pursuant to 36 CFR 211.18(h), a request for a stay at the first level of appeal will be considered if the requester submits information explaining what action is to be stopped and why. The Reviewing Officer has 10 days to decide on a stay and must notify the appellant of the stay decision in writing. The rule requires that a stay remain in effect until 10 days after an appeal decision is rendered. The rule does not currently provide the Reviewing Officer any flexibility to modify or vacate a stay once granted.

At the second level of appeal, a stay request must be made at the time of filing the notice of appeal (36 CFR 211.18.(c)(2)). This provision effectively limits requests for stay to appellants, since intervenors usually do not know of an appeal until after it is filed.

This interim rule would remove the requirement that a request for stay at the second level of appeal must accompany notice of appeal. Under the interim rule, a request for stay would be acceptable at any time pending a decision on the merits of an appeal. The interim rule would also result in consistent treatment of stay requests at all levels of appeals.

The interim rule amends the present procedures governing filing and handling of stay requests, as follows:

1. The requester must file the stay request and supporting information with the Reviewing Officer and provide the Deciding Officer (the officer who made the original decision or appeal decision) with a copy of the stay request and supporting information.

2. The Deciding Officer must, within 7 days, provide the Reviewing Officer and all parties to an appeal, an analysis of the stay request.

3. The rule establishes basic criteria to be applied to stay requests by the Reviewing Officer.

4. The maximum time for a Reviewing Officer to rule on a stay request is lengthened from 10 to 21 days to allow further reasonable time for consideration of the stay request and factors relevant to the stay decision.

5. The rule provides the Reviewing Officer authority to modify or vacate a stay that has been granted pending a decision on the merits of the appeal.

These changes result from experience in implementing the existing rule with regard to stay requests. Reviewing Officers have felt the need for analysis of the impacts of stays but have found it difficult to obtain and consider such analyses within the 10 day period for ruling on stay requests. The longer period will allow the Reviewing Officer a more reasonable opportunity to consider factors relevant to a requested stay. The requirement for Deciding Officers to prepare an analysis of the effects of a stay ensures that officer the opportunity to respond to the assertions made by the appellant or intervenor, provides additional information to the Reviewing Officer, and makes that analysis a part of the record.

The Forest Service officers who issue a stay should have the inherent right to modify or vacate a stay. However, the absence of affirmative language in the rule on this point has led to inconsistent treatment by Reviewing Officers and gives the appearance that the initial granting or denying of a stay is frozen in place until the appeal decision is rendered.

Because of the heavy appeals workload and anticipated numbers of requests for stays and their complexity, it is necessary to improve consistency and allow greater flexibility in the handling of stay requests. Therefore, this rule is being implemented immediately upon publication. And, it will apply to all appeals currently being processed. This means that stay decisions already rendered in existing appeals, are subject to the modification provisions of the regulation. However, public comment is invited and will be considered fully in promulgation of a final rule.

Regulatory Impact

Because of the need to implement these revised procedures immediately to improve consistency to processing stay requests, time has not permitted advance review by the Office of Management and Budget. However, as required by E.O. 12291, notice of this rule is being given to the Director of the Office of Management and Budget upon publication in the **Federal Register.**

The rule will have no effect on the Nation's economy, or on the quality of the human environment. The final rule does not contain an information collection or recordkeeping requirement as defined in the Paperwork Reduction Act of 1980 and thus is exempt from the review procedures of 5 U.S.C. 1320.

List of Subjects in 36 CFR Part 211

Administrative practice and procedure, National forests.

Therefore, for the reasons set forth above, Subpart B—Appeal of Decisions Concerning the National Forest System of Part 211—Administration of Title 36 of the Code of Federal Regulations is amended as follows:

PART 211—ADMINISTRATION

Subpart B—Appeal of Decisions Concerning the National Forest System

1. The authority citation for Part 211 continues to read as follows:

Authority: 30 Stat. 35, as amended, sec. 1, 33 Stat. 628 (16 U.S.C. 551, 472).

2. Revise paragraphs (c)(2) and (h) of § 211.18 to read as follows:

§ 211.18 Appeal of decisions of forest officers.

* * * * *

(c) * * *

(2) A notice of appeal at the second level must be filed within 30 days of written decision. A statement of reasons to support the appeal and any request for an oral presentation must accompany any notice of appeal at the second level.

* * * * *

(h) *Stay of decision pending appeal.*
(1) An appellant or intervenor may request a stay of decision at any time while an appeal is pending.

(2) In making a request for a stay of decision, an appellant or intervenor must:

(i) Enclose a copy of the Notice of Appeal or request for intervention and a copy of the decision being appealed.

(ii) As part of the request, provide a written description of the specific activities to be stopped and the reasons why the stay should be issued. The description should include the effect of the activity upon the requester and the nature of any imminent harm which might occur if the activity(ies) were to continue while the appeal on the merits of the decision is pending.

(iii) File the request for stay and accompanying documents with the Reviewing Officer and simultaneously provide a copy to the Deciding Officer and other parties to the appeal.

(3) Within 7 days of receipt of a copy of the stay request, the Deciding Officer shall, by the most expeditious method, transmit to the Reviewing Officer an analysis on the stay request. The Reviewing Officer may waive this requirement where appropriate. When an analysis is prepared:

(i) The analysis should address the requester's reasons for stay, effects on involved entities, including the Forest Service, and any other pertinent information.

(ii) The Deciding Officer shall send a copy of the stay analysis to all parties to the appeal at the same time as it is sent to the Reviewing Officer.

(4) The factors that a Reviewing Officer should consider in ruling on a stay request include but are not limited to:

(i) The effect of a stay on the parties and on the public interest, including the possibility of irreparable harm to parties to the appeal.

(ii) The potential for irreversible impact on the resource during the pendency of the appeal.

(iii) The effect of a stay or denial of a stay on preservation of a meaningful appeal on the merits.

(iv) Other factors deemed relevant by the Reviewing Officer.

(5) The Reviewing Officer may rule on a stay request at any time, but in no case shall a decision on a stay request exceed 21 days from receipt of the stay request.

(i) If a stay is granted, it shall remain in effect until 10 days after a decision on the merits, unless a different period is specified in the decision document, or modification occurs pursuant to paragraph (h)(6) of this section.

(ii) If a stay is granted, the stay shall specify the following: specific activities to be stopped; duration of the stay; and reasons for granting the stay.

(iii) If a stay is denied, the decision shall specify the reasons for the denial and any subsequent appeals rights.

(6) A Reviewing Officer may modify or vacate a stay decision according to any terms established by the Reviewing Officer in the decision itself, or at any time during an appeal that new information and/or changed circumstances support a modification of the stay.

(i) A Reviewing Officer may initiate a modification of a stay, or may consider a modification upon petition by any party to the appeal (including the Deciding Officer).

(ii) Prior to modification of a stay, the Reviewing Officer shall give all parties notice and an opportunity to comment on the proposed stay revision.

(7) When intervention is sought and is accompanied by a stay request, the Reviewing Officer's period for issuance of a decision on the stay request starts on the date intervention is granted.

(8) Levels of appeal for any decision on a stay request or modification thereof are those specified in paragraphs (f), (l), and (o) of this section.

(9) The provisions in this paragraph apply to all appeals pending on the effective date of the revision of paragraph (h) of this regulation.

* * * * *

Dated: November 10, 1986.

Douglas W. MacCleery,

Acting Assistant Secretary, Natural Resources and Environment.

[FR Doc. 86-26066 Filed 11-18-86; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 3114-2; NC-013, -014]

Approval and Promulgation of Implementation Plans, North Carolina; Miscellaneous Regulatory Changes

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In this action, EPA is approving revisions to the North Carolina State Implementation Plan for Air Quality which were submitted by the North Carolina Division of Environmental Management on March 18, 1985, and April 15, 1985. These revisions include: the addition of control standards for three volatile organic compound (VOC) source categories; the addition of test methods for VOC sources; the deletion of mandatory source registration; a clarification of how to determine allowable particulate emissions from existing fuel and wood burning indirect heat exchangers when new boilers are added to a site; an explanation of how to correct to twelve percent oxygen when determining emission from incinerators; and additional permit application provisions. Most of the regulation changes are minor in nature and serve merely to update the North Carolina Administrative Code.

EFFECTIVE DATE: This rule will become effective December 19, 1986.

ADDRESSES: Copies of the State's submittals are available for review during normal business hours at the following locations:

Air Quality Section, Division of Environmental Management, North Carolina Department of Natural Resources and Community Development, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611

Air Programs Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365

The Office of the Federal Register, 1100 L Street, NW., Room 8301, Washington, DC.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

FOR FURTHER INFORMATION CONTACT: Pamela Gilbert of the Region IV EPA Air Programs Branch, at the above address and following phone (404) 347-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On March 18, 1985, and April 15, 1985, the North Carolina Division of Environmental Management submitted numerous regulation changes and nonregulatory revisions to the North Carolina State Implementation Plan (SIP). EPA proposed to approve these revisions on March 7, 1986, at 51 FR 7959. EPA is now taking final approval action on these revisions, as submitted on the above dates. A discussion of these revisions and the basis for EPA action now follow:

Submittal of March 18, 1985

- Regulation 15 NCAC 2D.0606 (Other Coal or Residual Oil Burners) was amended to correct a cross reference. The regulation previously referenced 15 NCAC 2D.0603 (Sources Covered by

New Source Performance Standards), which has been repealed. Regulation 15 NCAC 2D.0524 (New Source Performance Standards) was substituted for the repealed 15 NCAC 2D.0603.

• Regulation 15 NCAC 2D.0939 (Determination of Volatile Organic Compound Emissions) was amended by adding three test methods for quantifying VOC emissions.

• Regulation 15 NCAC 2D.0943 (Synthetic Organic Chemical and Polymer Manufacturing); 2D.0944 (Manufacturing of Polyethylene, Polypropylene and Polystyrene); and 2D.0945 (Petroleum Dry Cleaning) are new regulations which were adopted to control additional sources of volatile organic compounds. The rules are consistent with the Group III Control Technology Guideline Documents for those source categories. The regulations in Section 2D.0900 presently are only mandatory for sources in Mecklenburg County (the State's only nonattainment area for ozone) which have the potential to emit 100 tons per year or more of VOCs. There are presently no sources in Mecklenburg County to which these three rules apply.

• Also included in the March 18, 1985, submittal were revisions to regulation 2D.0524 (New Source Performance Standards) and 2D.0525 (National Emission Standard for Hazardous Air Pollutants). North Carolina revised their rules by adding six New Source Performance Standards (NSPS) and two National Emission Standards for Hazardous Air Pollutants (NESHAP). They also requested delegation of authority for implementing and enforcing the NSPS and NESHAP for these source categories. A letter delegating this authority to the state was signed by Charles R. Jeter, Regional Administrator, on April 1, 1985. The delegation was announced in the **Federal Register** on August 1, 1985 (50 FR 31182).

Submittal of April 15, 1985

• Regulation 15 NCAC 2D.0202 (Registration of Air Pollution Sources) was amended to require sources to register only when requested to do so by the State. In the past, registration was mandatory for all sources of air pollution, but this procedure is no longer necessary because the State requires virtually all sources to have permits. Permit applications contain essentially the same information contained in the registration form. To eliminate this unnecessary duplication, North Carolina has eliminated the requirement for all sources to register.

• Regulation 15 NCAC 2D.0501 (Compliance with Emission Control Standards) was amended to remove the requirement for mandatory source registration and to correct a cross reference. Test methods for mercury and for VOC's were also added and updated. Revisions to subparagraph (f)(1)(A) of regulation 2D.0501 were also submitted on April 15, 1985. EPA will take action on the changes to 2D.0501(f)(1)(A) in a separate **Federal Register** notice.

• Regulation 15 NCAC 2D.0503 (Control of Particulates from Fuel Burning Indirect Heat Exchangers) and 2D.0504 (Particulates from Wood Burning Indirect Heat Exchangers) were amended to clarify how allowable particulate emissions from existing boilers are determined when a new boiler is added to the site.

• Regulation 15 NCAC 2D.0505 (Control of Particulates from Incinerators) was amended to explain how to correct to twelve percent carbon dioxide when determining the amount of particulate emissions from incinerators.

• Regulation 15 NCAC 2H.0603 (Applications) was amended to allow the State to request information from a source (in addition to what is required on the permit application) when it is necessary to properly evaluate that source's application for a permit.

New source impact analyses and permit applications, for sources proposed to be located in nonattainment areas, are now available for public inspection. The public also has the opportunity to request a public hearing on such permit applications and impact analyses.

Further details pertaining to these regulation changes are contained in the technical support document, which is available for public inspection at EPA's Regional Office in Atlanta, Georgia.

Final Action

EPA is approving the above regulation changes which were submitted to EPA on March 18, 1985, and April 15, 1985, with the exception of 2D.0501(f)(1)(A) which will be acted upon in a separate notice.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 20, 1987. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2).).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Particulate matter, Hydrocarbons, Intergovernmental relations, Incorporation by reference.

Note.—Incorporation by reference of the State Implementation Plan for the State of North Carolina was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 7, 1986.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart II—North Carolina

2. Section 52.1770 is amended by adding paragraphs (c)(43) and (c)(44) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(43) Revisions to the North Carolina Administrative Code were submitted to EPA on March 18, 1985.

(i) Incorporation by reference.

(A) Changes in the following regulations were adopted by the Environmental Management Commission on March 14, 1985:

15 NCAC 2D.0606, Other Coal or Residual Oil Burners
15 NCAC 2D.0939, Determination of Volatile Organic Compound Emissions

(B) The following new regulations were adopted by the Environmental Management Commission on March 14, 1985:

15 NCAC 2D.0943, Synthetic Organic Chemical and Polymer Manufacturing
15 NCAC 2D.0944, Manufacturing of Polyethylene, Polypropylene, and Polystyrene
15 NCAC 2D.0945, Petroleum Dry Cleaning

(ii) Other material—none.

(44) Revisions to the North Carolina Administrative Code were submitted to EPA on April 15, 1985.

(i) Incorporation by reference.

(A) Changes in the following regulations were adopted by the Environmental Management Commission on April 11, 1985:

15 NCAC 2D.0202, Registration of Air Pollution Sources
15 NCAC 2D.0501, Compliance with Emission Control Standards (except the changes to paragraph (f)(1)(A))
15 NCAC 2D.0503, Control of Particulates from Fuel Burning Indirect Heat Exchangers
15 NCAC 2D.0504, Particulates from Wood Burning Indirect Heat Exchangers

15 NCAC 2D.0505, Control of Particulates from Incinerators
15 NCAC 2H.0603, (Permit) Applications

(ii) Other material—none.

[FR Doc. 86-26072 Filed 11-18-86; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 62

[A-4-FRL-3113-9; NC-024]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants, North Carolina; Minor Revisions to 111(d) Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In this action, EPA is approving revisions to three North Carolina regulations which are part of the North Carolina 111(d) plans for sulfuric acid mist, total reduced sulfur, and fluorides from primary aluminum reduction plants. These revisions are minor and do not change the meaning of the current regulations.

DATES: This action will be effective January 20, 1987 unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection at the following locations and notice of adverse or critical comments may be submitted to Janet Hayward at the EPA Regional Office listed below:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Air Quality Section, Division of Environmental Management, North Carolina Department of Natural Resources and Community Development, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina, 27611.

FOR FURTHER INFORMATION CONTACT: Janet Hayward of the EPA Region IV, Air Programs Branch, at the above address and telephone (404) 347-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On December 17, 1984, the North Carolina Division of Environmental Management submitted numerous changes to the North Carolina Administrative Code to EPA for approval as part of the State Implementation Plan (SIP). These changes included several rule revisions which could not be processed as revisions to the SIP under section 110 of the Clean Air Act (the Act), because they dealt with "designated pollutants" which are regulated under section 111(d) of the Act. These rules were: 2D.0517 (Emissions from Plants Producing Sulfuric Acid), 2D.0528 (Total Reduced Sulfur from Kraft Pulp Mills) and 2D.0529 (Fluoride Emissions from Primary Aluminum Reduction Plants).

North Carolina resubmitted the above regulations on July 18, 1986, for approval as minor changes to the State's 111(d) plans for those designated pollutants. There are no substantive differences in the effect of the North Carolina air pollution control regulations as a result of the changes. Terms have been changed to make them consistent with current usage and changes have been made in order to standardize nomenclature and to clarify the intent and applicability of the regulations.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this Federal Register unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective January 20, 1987.

Final Action

After reviewing North Carolina's 111(d) plan revisions, EPA is approving these changes because they are routine wording changes and have no effect on the meaning of the regulations. Under 5 U.S.C. section 605(b), I certify that these revisions will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 20, 1987. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2).).

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Aluminum, Pulp and paper products industry, Sulfur oxides, Sulfuric acid plants.

Dated: November 7, 1986.

Lee M. Thomas,
Administrator.

PART 62—[AMENDED]

Part 62 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

Subpart II—North Carolina

2. Section 62.8350 is amended by adding paragraph (b)(4) to read as follows:

§ 62.8350 Identification of Plan.

* * * * *

(b) * * *

(4) The following revisions to Title 15 of the North Carolina Administrative Code (15 NCAC) were submitted to EPA on July 18, 1986, following adoption by the North Carolina Environmental Management Commission on November 8, 1984: revised regulations 2D.0517—Emissions From Plants Producing Sulfuric Acid, 2D.0528—Total Reduced Sulfur From Kraft Pulp Mills, and 2D.0529—Fluoride Emissions From Primary Aluminum Reduction Plants.

* * * * *

[FR Doc. 86-26071 Filed 11-18-86; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 81

[A-9- FRL-3114-5]

Designation of Areas For Air Quality Planning Purposes; Las Vegas Valley, NV, Redesignation for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice takes final action to approve the State of Nevada request for the redesignation of the Las Vegas Valley nonattainment area to attainment for ozone. EPA finds that the National Ambient Air Quality Standards (NAAQS) for ozone have not been violated, based on data available from 1983 to date measured in the area being redesignated. This action updates the attainment status for the area. Also, no additional Part D requirements need to be satisfied in the attainment area.

DATES: This action will be effective January 20, 1987, unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: The EPA Technical Support Document (June 1986) is available for public inspection during normal business hours at the EPA Region 9 address listed below and at the following locations:

Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 201 S. Fall Street, Carson City, NV 89710

Clark County Health District, Air Pollution Control Division, 625 Shadow Lane, Las Vegas, NV 19106

FOR FURTHER INFORMATION CONTACT: Morris Goldberg (A–2–1), Technical Evaluation Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco CA 94105, Telephone: (415) 974–7651, (FTS) 454–7651.

SUPPLEMENTARY INFORMATION: .

Background

On March 3, 1978 (43 FR 8962), under paragraph 107(d)(2) of the Clean Air Act, as amended, EPA promulgated attainment status designations for all states. Ambient air quality data measured in Las Vegas Valley in 1977 was provided to EPA by the State along with a recommendation that the area be designated nonattainment for oxidant, in accord with paragraph 107(d)(1)(A) of the Act. EPA designated the Las Vegas Valley area nonattainment for oxidant.

On February 8, 1979 (44 FR 8220), the NAAQS were revised from 0.08 ppm oxidant, 1-hour average concentration, not to be exceeded more than once per year, to 0.12 ppm ozone, daily maximum 1-hour average concentration, not expected to be exceeded more than an 1.0 times per year, averaged over the most recent three years for which data are available. The attainment status designation table headings at 40 CFR Part 81 were revised accordingly.

On April 1, 1986, the State of Nevada requested that EPA redesignate the Las Vegas Valley area to attainment for ozone. The request indicated that the implementation of EPA-approved control measures had resulted in only one exceedance of the NAAQS at each of two monitoring stations and less than 1.0 expected exceedances at each of three sites in the last three years.

Evaluation

EPA reviewed the ozone ambient air quality data from the three monitoring sites in the Las Vegas Valley and found it consistent with the data in the redesignation request. EPA found one exceedance of the NAAQS at each of two of the three sites during the past three years. The exceedances were recorded on September 14, 1983, at the Casino Center site and on February 15, 1985, at the Henderson monitoring site. Based on the completeness of the data, EPA found 0.4 and 0.3 expected exceedances of the NAAQS, averaged over the most recent three years at the Las Vegas-Casino Center and Henderson-Powerline monitoring sites, respectively. Also no exceedances have been measured to-date in 1986 at any Las Vegas Valley monitoring station.

The ozone implementation plan for the Las Vegas Valley was submitted by the State of Nevada on January 11, 1985 and fully approved on August 21, 1986 (51 FR 29923). The approved plan contains chlorine stationary source emission limitations and new source review rules. These regulations, adopted on May 18, 1984, assure EPA that the 90% reduction in chlorine emissions obtained between 1979 and 1983 would continue. EPA also approved the plan's demonstration (of attainment) of the effect of the chlorine emission control strategy on the ozone ambient air quality concentrations in the area. EPA's approval of the control strategy containing these measures indicates that the plan satisfactorily demonstrates that these measures, when implemented, have the potential to provide the emission reduction necessary for the attainment and maintenance of the designated national ambient air quality standard. The plan also contains approved control measures for volatile organic compounds, as required by EPA, to ensure that ozone caused by the more traditional precursors is controlled.

Thus, EPA concludes, as did the State, that the implementation of federally enforceable control measures has resulted in air quality better than that needed for redesignation of the area. Thus, EPA concurs with the redesignation of the area from nonattainment to attainment for ozone.

EPA Action

This notice takes final action to redesignate the Las Vegas Valley, Nevada, from nonattainment to attainment for ozone, as requested by the State.

Direct Final

EPA's approval of the above redesignation in Nevada is being done without prior proposal because the redesigation is not considered to be controversial. The public should be advised that this approval action will be effective 60 days from the date this approval is published in the **Federal Register.** However, if notice is received by EPA within 30 days indicating that someone wishes to submit adverse or cirtical comments, this approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Regulatory Process

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 20, 1987. This action may not be challenged later in processing to enforce its requirements (See 307(b)(2)).

Under 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small business entities. [46 FR 8709].

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: October 17, 1986.

Lee M. Thomas,

Administrator.

PART 81—[AMENDED]

40 CFR Part 81 is amended as follows:

Subpart C—Section 107 Attainment Status Designations

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. In § 81.329 the Nevada attainment status designation table for ozone (O_3) is revised to read as follows:

§ 81.329 Nevada.

* * * * *

NEVADA—O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Entire State		X

[FR Doc. 86–26073 Filed 11–18–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF AGRICULTURE

48 CFR Part 433

[Agriculture Acquisition Circular No. 1]

Acquisition Regulation; Competition in Contracting and Miscellaneous Changes; Correction

AGENCY: Office of Operations, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule, which was published in the **Federal Register** on Monday, September 29, 1986 (51 FR 34564) to amend Agriculture's Acquisition Regulation (AGAR) for the purpose of implementing the Competition in Contracting Act of 1984 and inserting other additions, deletions, and revisions.

EFFECTIVE DATE: September 29, 1986.

FOR FURTHER INFORMATION CONTACT: Larry Schreier, Office of Operations, United States Department of Agriculture, Washington, DC, (202) 447–8924.

SUPPLEMENTARY INFORMATION: In FR Doc. 86–21954 published Monday, September 29, 1986, make the following correction in order to remedy an inadvertent deletion of existing sections of text, which should have been redesignated as sections under Subpart 432.2:

1. On page 34566, the instruction for item 17 is corrected to read as follows:

"17. Part 433 is amended to read as follows by:

(a) revising the Table of Contents; (b) adding Subpart 433.1 consisting of sections 433.102 through 433.105; (c) redesignating sections 433.003, 433.003–70, 433.009, 433.011, and 433.012 as sections 433.203, 433.203–70, 433.209, 433.211, and 433.212, respectively and designating the redesignated sections as subpart 433.2; (d) revising the FAR cross-referenced section numbers 33.003, 33.009, and 33.011(a)(4) as shown in the text of redesignated sections 433.203(a), 433.209, and 433.211 to read as 33.203, 33.209, and 33.211(a)(4), respectively; and (e) revising the AGAR cross-referenced section number 433.003–70 shown in the text of redesignated section 433.211 to read as 433.203–70."

List of Subjects in 48 CFR Part 433

Government procurement; Protests, Disputes, & Appeals.

Dated: November 12, 1986.

Charles A. Bucy,

Acting Director.

[FR Doc. 86–25915 Filed 11–18–86; 8:45 am]

BILLING CODE 3410-98-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Experimental Population Status for an Introduced Population of Red Wolves in North Carolina

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service determines that it will introduce mated pairs of red wolves (*Canis rufus*) into the Alligator River National Wildlife Refuge (Refuge) in Dare County, North Carolina. The red wolf population in Dare County and the adjacent Tyrrell, Hyde, and Washington Counties is determined to be a nonessential experimental population according to section 10(j) of the Endangered Species Act of 1973 (ESA), as amended. The red wolf is now extirpated from its entire historic range in the southeastern United States; this action is being taken in an effort to reestablish a wild population. The experimental population status is designated because section 10(j) authorizes more discretion in devising an active management program for an experimental population than for a regularly listed species, a critical factor in insuring that other agencies and the public will accept the proposed reintroduction. An experimental population is treated as a threatened species for purposes of sections 4(d) and 9 of the Act, which prohibit certain activities involving listed species. Accordingly, a special rule for specifying circumstances under which taking of introduced red wolves will be allowed is being promulgated in conjunction with the nonessential, experimental population rule. Management actions that would involve take include recapture of wolves to replace transmitter or capture collars, provide routine veterinary care, return animals to the refuge which have strayed outside its boundaries, or to return to captivity animals that are a threat to human safety or property, or which are severely injured or diseased. The nonessential designation is determined because the species is fully protected in captivity in six different locations, and all animals released into the wild can be quickly replaced through captive breeding. When not on National Wildlife Refuge or National Park lands, a nonessential experimental population is treated as a proposed species, rather than a listed species, for purposes of the review of other Federal agency actions under section 7 of the ESA (except for section 7(a)(1), which applies to all experimental populations). No conflicts are envisioned between the red wolf reintroduction and any existing or anticipated Federal agency actions or traditional public uses of the refuge or surrounding lands.

DATES: The effective date of this rule is December 19, 1986. Although red wolves will be transported to North Carolina prior to the effective date, no wolves will be released until next spring, well after this final rule becomes effective.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Endangered Species Field Office, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

FOR FURTHER INFORMATION CONTACT: Mr. Warren T. Parker, Asheville Endangered Species Field Supervisor (see **ADDRESSES** section above), or Mr. Marshall P. Jones, Chief, Endangered Species Division, U.S. Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303 (404/331–3580 or FTS 242–3580).

SUPPLEMENTARY INFORMATION:

Background

Among the signficant changes made by the Endangered Species Act Amendments of 1982, Pub. L. No. 97–304, was the creation of a new section 10(j) which provides for the designation of specific introduced populations of listed species as "experimental populations." Under previous authorities in the Act, the Service was permitted to reintroduce populations into unoccupied portions of a listed species historic range when it would foster the conservation and recovery of the species. Local opposition to reintroduction efforts, however, stemming from concerns about the restrictions and prohibitions on private and Federal activities contained in sections 7 and 9 of the Act, severely handicapped the effectiveness of this as a management tool. Under section 10(j), past and future reintroduced populations established outside the current range, but within the species' historic range, may now be designated, at the discretion of the Service, as "experimental." Such designations will increase the Service's flexibility to manage these reintroduced populations because such experimental populations may be treated as threatened species. The Service has much more discretion in devising management programs for threatened species that for endangered species, especially on matters regarding

incidental or regulated takings. Morever, experimental populations found to be "nonessential" to the continued existence of the species in question are to be treated as if they were only proposed for listing for purposes of section 7 of the ESA, except as noted below. A "nonessential" experimental population is not subject to the formal consultation requirement of section 7(a)(2) of the Act, but if the experimental population is found on a National Wildlife Refuge or National Park, the full protection of section 7 applies to such animals. (The provision in section 7(a)(1) applies to all experimental populations.) The individual organisms comprising the designated experimental population can be removed from an existing source or donor population only after it has been determined that their removal itself is not likely to jeopardize the continued existence of the species, and must be done under a permit issued in accordance with the requirements in 50 CFR 17.22.

The species included in this final rule is the red wolf (*Canis rufus*), an endangered species which is currently extirpated from the wild. The red wolf was originally native to the southeastern United States from the Atlantic Coast westward to central Texas and Oklahoma and from the Gulf of Mexico to central Missouri and southern Illinois. The historic relationship of the red wolf to other wild canids is poorly understood, but it is thought that the red wolf coexisted with the coyote (*Canis latrans*) along its western range generally along the line where deciduous cover gave way to open prairie in Texas and Oklahoma. The gray wolf (*Canis lupus*) is believed to have frequented the range north of the red wolf, but probably did range along higher elevations of the Appalachian Mountains as far south as Georgia and Alabama. Historical evidence seems to characterize the red wolf as common in the vast pristine bottomland riverine habitats of the southeast, and especially numerous in and adjacent to the extensive "canebrakes" that occurred in these habitats. The canebrakes harbored large populations of swamp and marsh rabbits, considered likely to be the primary prey species of the red wolf under natural conditions. The demise of the red wolf was directly related to man's activities, especially land changes, such as the drainage of vast wetland areas for agricultural purposes; the construction of dam projects that inundated prime habitat; and predator control efforts at the private, State, and Federal levels. At that time the natural history of the red wolf was poorly understood, and like most other large predators, it was considered a nuisance species. Today, the red wolf's role as a potentially important part of a natural ecosystem, if it can be successfully reintroduced, is better appreciated. Furthermore, it is now clear that traditional controls would not be needed in any case; the red wolf would pose no threat to livestock in situations where its natural prey, especially such small mammal species as rabbits and opossums, are abundant. Service studies have documented that there is an abundant prey base at the Alligator River National Wildlife Refuge. This was one of the criteria used to select it as a reintroduction site.

Man-caused pressures eventually forced the red wolf into the lower Mississippi River drainage and lastly into southeast Texas and southwest Louisiana. This was where the only surviving population remained in the mid-1970s when the Service decided to trap the animals and place them in a captive breeding program. This decision was based on the obviously low number of animals left in the wild, poor physical condition of these animals due to internal and external parasites and disease, and the treat posed by an expanding coyote population and consequent inbreeding problems. A Red Wolf Captive Breeding Program was established by contract with the Paint Defiance Zoological Garden of the Metropolitan Park Board of Tacoma, Washington. Soon, thereafter, 40 wild-caught adult red wolves were provided to the breeding program, and the first litter of pups was born in May 1977. Since then, the wolves have continued to prosper at this and six other captive facilities throughout the United States. Without this extreme action it is obvious that the species would now be completely extinct. Throughout this time, however, the goal of the Service's red wolf recovery program has continued to be the eventual release of at least some of the captive animals into the wild to establish new, self-sustaining populations.

To demonstrate the feasibility of such reintroductions of red wolves, the Service conducted carefully planned experiments in 1976 and 1978. These experiments involved the release of mated pairs of red wolves onto Bulls Island, a 4,000-acre component of the Cape Romain National Wildlife Refuge near Charleston, South Carolina. The results of these planned releases indicated that it is feasible to reestablish adult wild-caught red wolves in selected habitats in the wild. The experiments were eventually terminated, and the wolves recaptured and returned to captivity all in good health. Bulls Island was not large enough to support a self-sustaining population of wolves, and it was never intended to be a permanent reintroduction site. Observations and conclusions derived from these experiments, plus knowledge gained with wild-caught but captive-reared pups in Texas, also indicate the potential success of establishing captive reared populations in the wild.

Based on limited historical knowledge of this species, it is believed that the red wolf would thrive in dense cover typified by large acreages of bottomland vegetation now typically found in remnant sites throughout the Piedmont and Coastal Plain regions of the southeastern States. Such sites would provide the small mammal prey base and the denning and escape cover required by the species. Ideally such areas would also be isolated, have a low human encroachment potential, and be secured in either State or Federal ownership.

A great deal of investigative effort by the Fish and Wildlife Service since 1980 has been directed at locating suitable release sites throughout the historic range of the red wolf. Apparently ideal habitat for this species exists within the Alligator River National Wildlife Refuge in Dare and Tyrrell Counties, North Carolina. This refuge comprises nearly 120,000 acres of the finest wetland ecosystems found in the Mid-Atlantic region. Principal natural communities in the Refuge include broad expanses of palustrine (non-riverine) swamp forests, pocosins, and freshwater and salt marshes. Adjacent to the refuge is a 47,000-acre U.S. Air Force bombing range with similar habitats. The very limited live ordnance expended by the Air Force and Navy on this range is restricted to two extremely small, well defined, and cleared target areas (approximately 10 acres each). The establishment of an experimental population of red wolves in this refuge will greatly enhance the recovery of this species by demonstrating the feasibility of a large predator reintroduction. The approved Red Wolf Recovery Plan calls for the establishment of three self-sustaining populations before the species can be considered for possible downlisting from its endangered status. By demonstrating that reintroductions of red wolves into suitable habitats is feasible, the Service hopes to encourage other Federal land management agencies in the Southeast to become interested in further reintroduction efforts.

Presently, the Fish and Wildlife Service's Red Wolf Captive Breeding Program in Washington State has 49 animals. One small captive breeding program near St. Louis, Missouri, has 12 wolves, and 19 other animals are in five public and private zoos in the United States. The Fish and Wildlife Service has full responsibility for all of the red wolves in captivity, and from this captive group will come those animals selected for a reintroduction. A reintroduction project at the refuge requires the removal of 8 to 12 animals from the captive program over a period of 12 months. Animals selected for reintroduction to the wild will be flown to Norfolk, Virginia, in the fall and transported by truck to the refuge. Each pair will be placed in a 2,500-square foot acclimation pen for a period of six months. Acclimation pens will be isolated and provided maximum protection. During their acclimation each animal will be fitted with a radio collar and a capture collar to allow the animals time to adjust to the collars and also to insure the quick retrieval of any animals if this proves necessary.

During the early spring months of 1987, three pairs of mated, acclimated red wolves will be released on a 2-week staggered schedule. They will be closely monitored via telemetry tracking for the first 4 to 6 weeks, then the frequency of monitoring will be gradually reduced after each pair has established a home range on the refuge. If these initial releases are judged successful, two more mated pairs will be released on the refuge the following spring (1988) after going through the acclimation process. It is anticipated that the refuge and adjacent U.S. Air Force lands could eventually sustain a red wolf population of about 25 to 35 animals.

Status of Reintroduced Populations

This reintroduced population of red wolves is designated as a nonessential experimental population according to the provisions of section 10(j) of the Act. The experimental population status means the reintroduced population will be treated as a threatened species, rather than an endangered species, for the purposes of sections 4(d) and 9 of the Act, which regulate taking, and other actions. This enables the Service to adopt a special rule which is less restrictive than the mandatory prohibitions covering endangered species, if there is a management need for more flexibility and the resulting protections are necessary and advisable for the conservation of the red wolf. The Service recognizes that circumstances could arise whereby a person engaged in an otherwise lawful activity such as hunting or trapping, might accidently take a red wolf despite the exercise of reasonable due care. Where such a taking was unavoidable, unintentional, and did not result from negligent conduct lacking reasonable due care, the Service believes that no legitimate conservation purpose would be served by bringing an enforcement action under the ESA. Therefore, upon investigation of a taking, the Service would not prosecute anyone under such circumstances. In addition, red wolves can be taken in defense of human life (though such circumstances are considered extremely unlikely to occur), provided the taking is immediately reported to the Refuge Manager. Service and State employees and agents would be additionally authorized to take animals which are responsible for depredations to livestock or property by means which might involve injury or death only if it has not been possible to eliminate such threat by live capturing and releasing the red wolf unharmed on the refuge. These flexible rules are considered a key to public acceptance of the reintroduced population. The State of North Carolina has regulatory authority to protect and conserve the species, and we are satisfied that the State's regulatory system for recreational activities is sufficient to provide for conservation of the red wolf. No additional Federal regulations are needed.

The nonessential status is appropriate for the following reasons: Although extirpated from the wild, the red wolf, nevertheless, is secured in seven widely separate captive breeding programs and zoos in the United States. The existing captive population totals 80 animals, with over half this number in the U.S. Fish and Wildlife Service's captive breeding program in the State of Washington, and the other animals scattered in six facilities in Louisiana, Texas, Missouri, Florida, and New York. Given the health checks and careful monitoring that these animals receive, it is highly unlikely that disease or other natural phenomena would threaten the survival of the species. Furthermore, the species breeds readily in captivity; only five members of the existing captive population were wild caught, with all the others born since 1977 to captive pairs. Therefore, the taking of 8 to 12 animals from this captive assemblage would pose no threat to the survival of the species even if all of these animals, once placed in the wild, were to succumb to natural or man-caused factors.

The management advantage from the nonessential status comes from the fact that it would change the application of section 7 of the Act (interagency consultation) to the reintroduced population. Off of the refuge (*i.e.*, on the Dare County Bombing Range or on private lands), the nonessential experimental population would be treated as if it were a species proposed for listing, rather than a listed species. This means that only two provisions of section 7 would apply on these non-Service lands: Section 7(a)(1), which authorizes all Federal agencies to establish conservation programs; and section 7(a)(4), which requires Federal agencies to confer informally with the Service on actions that are likely to jeopardize the continued existence of the species. The results of a conference are only advisory in nature; agencies are not required to refrain from commitment of resources to projects as a result of a conference. There are in reality no conflicts envisioned with any current or anticipated management actions of the Air Force or other Federal agencies in the area. The presence of the bombing range is in fact a benefit, since it forms a secure buffer zone between the refuge and private lands; the target areas that are actually fired into, as previously discussed, would be easily avoided by the wolves. Thus there would be no threats to the success of the reintroduction project or the overall continued existence of the red wolf from these less restrictive section 7 requirements.

On the Alligator River National Wildlife Refuge, on the other hand, the experimental population would continue to receive the full range of protections of section 7. This would prohibit the Service or any other Federal agency from authorizing, funding, or carrying out an action on the refuge which is likely to jeopardize the continued existence of the red wolf. Service regulations at 50 CFR 17.83(b) specify that section 7 provisions shall apply collectively to all experimental and nonexperimental populations of a listed species, rather than solely to the experimental population itself. The Service has reviewed all ongoing and proposed uses of the refuge, including traditional trapping and hunting with or without dogs, and found that none of these would jeopardize the continued existence of the red wolf, nor would they adversely affect the success of the reintroduction effort.

Location of Reintroduced Population

Since the red wolf is recognized as extinct in the wild, this reintroduction site fulfills the requirement of section 10(j) that an experimental population be

geographically isolated and/or easily discernible from existing populations. As previously described, the release sites are in the Alligator River National Wildlife Refuge in Dare County, North Carolina, in the extreme northeast corner of the State, just inland from the Outer Banks. The experimental population designation is also being extended to Tyrrell County (which includes a small portion of the Refuge lying west of the Alligator River) as well as the adjacent Washington and Hyde Counties.

Management

This reintroduction project will be undertaken by the Service. Present plans call for the acclimation of wolves for 6 months in captive pens on the refuge, followed by release of six animals in the spring of 1987, and if that is successful, by the release of two additional pairs the next spring. Animals released will be adult, previously mated pairs. Releases will be staggered at 2-week intervals. Reintroduced animals will be closely monitored via telemetry during the first 3 to 5 weeks following release. After this initial monitoring phase, periodic checks will be made to determine if established home ranges are being maintained. It is anticipated that, because of the size and habitat characteristics of the reintroduction area, animals will remain within the boundaries of the refuge and adjacent military lands. The public will be instructed to immediately report any observation of a red wolf off Federal lands to the refuge manager. The Service will then take appropriate actions to recapture and return the animal to the refuge.

Take of animals by the public will be discouraged by an extensive information and education program and by the assurance that all introduced animals will be radio-collared and, thus easy to locate if they leave the refuge. The public will be encouraged to cooperate with the Service in attempts to maintain the animals on the release site. In addition, there will be no penalty for taking a red wolf where the take, incidental to an otherwise lawful activity was unavoidable, unintentional, and did not result from negligent conduct lacking reasonable due care, provided the taking is immediately reported to the refuge manager. Service and State employees and agents would be additionally authorized to take animals which need special care or which are responsible for depredation to livestock or property only if it has not been possible to eliminate such threat by live capturing and releasing the specimen unharmed on the refuge. Take procedures in such instances would involve live capture and removal to a remote area, or if the animal is clearly unfit to remain in the wild, return to the captive breeding facility. Killing of animals would be a last resort; lethal takes are authorized only if live capture attempts failed or there was some clear danger to human life. These flexible rules are considered a key to public acceptance of the reintroduced population.

Utilizing information gained from this initial 5-year period, an overall assessment of the success of the reintroduction will be made at the end of the fifth year. This assessment will include public meetings in the Dare County area to ascertain public attitudes that have developed toward the red wolf. In consultation with the North Carolina Wildlife Resources Commission, a determination will then be made regarding the future management of wolves that leave the refuge/bomb range area. This assessment will provide the Service the information needed to initiate the next management phase for the Alligator River population and to consider additional red wolf introductions in accordance with the recovery goals identified for this species.

This reintroduction is not expected to conflict with existing or proposed human activities or hinder the utilization of the Alligator River National Wildlife Refuge by the public. Additionally, the presence of these animals is not expected to impact the ongoing activities designated for this national wildlife refuge. Utilization of the refuge for the establishment of a red wolf population is consistent with the legal responsibility of the Service to enhance the wildlife resources of the United States.

As described above, no extant populations are available to provide animals for this reintroduction. Therefore, the Service believes that this reintroduction will result in the establishment of the only viable wild population. With a successful reintroduction, the Service can begin to consider additional sites and proceed with the expectation that recovery of this species is attainable. In addition, there are no existing or anticipated Federal and/or State actions identified for this release site which are expected to affect this experimental population. For all of these reasons, the Service finds that the release of an experimental population of red wolves will further the conservation of this species. *See* ESA, section 10(j)(2)(A); 50 CFR 17.81(b).

On July 24, 1986, the Service published, in the **Federal Register** (51 FR 26564), a proposal to introduce mated pairs of red wolves into the Alligator River Refuge and to determine this population to be a nonessential, experimental population according to section 10(j) of the Endangered Species Act of 1973 (ESA), as amended. That proposal provided information on the species' biology, status, and recovery potential, as well as possible implications of reintroducing the red wolf to the refuge.

Summary of Comments and Recommendations

In the July 24, 1986, proposed rule (51 FR 26564) all interested parties were requested to submit comments that might contribute to the development of a final decision on the proposed rule. Appropriate State and Federal agencies, scientific and environmental organizations, and other interested parties were contacted and requested to comment. A 45-day comment period was provided. A total of 12 letters were received. Specific issues addressed by the commenters and the Service response to each are presented below.

1. General Comments of Support

The Edison Electric Institute commented that they support the reintroduction effort and expressed the opinion that the red wolf project should be a model for reintroduction of other endangered species.

The Tennessee Valley Authority expressed their support for the reintroduction, stressing the importance of the 1982 Amendment to the Endangered Species Act which allows for the experimental designation of animals selected for reintroduction.

The Secretary of the North Carolina Department of Natural Resources and Community Development expressed his agency's support for the project and underscored his view that the effort will provide not only a positive impact on the preservation of the red wolf, but also a greater goal, which is education. His letter went on to underscore the vital role that captive environments such as zoos can play in the preservation of species. The importance of captive programs in many endangered species endeavors was also voiced by the American Association of Zoological Parks and Aquariums and by the Point Defiance Zoo and Aquarium in Tacoma, Washington.

Response: The Service strongly concurs with the key role of zoos and other captive breeding programs in endangered species management, and

the importance of the experimental population provisions added to the Act in 1982 in fostering endangered species conservation.

2. Comments Concerning Taking of Red Wolves

The Defenders of Wildlife, the National Audubon Society, The Humane Society of the United States and the National Wildlife Federation each expressed strong support for the proposal, but objected to the proposed incidental take provision as being both unnecessary and subject to misinterpretation. These organizations shared the view that this language could be construed to mean that the Service would invite or condone the indiscriminate killing of red wolves.

Response: After reconsideration of this issue, the Service agrees that the language in the proposed special rule is difficult to interpret, although the coverage of the incidental take exception in proposed § 17.84(c)(4)(i) was clearly intended by the Service to be limited to unintentional taking that results from otherwise lawful recreational activities. The Service did not intend to allow indiscriminate killing of red wolves through the language of its proposed rule. Nevertheless, to avoid any possible confusion, the special rule has been revised to delete this language. Instead, the enforcement policy of the Service with regard to the accidental taking of a red wolf has been clarified in the preamble to this final rule (see "Background" section). In essence, there will be no penalty where the take of a red wolf, incidental to an otherwise lawful activity, was unavoidable, unintentional, and did not result from negligent conduct lacking reasonable due care, provided the taking is immediately reported to the refuge manager.

The Wildlife Information Center requested that only live traps be used should it be necessary for the Service to remove wolves from the project area.

Response: The Service will make every effort to keep red wolves on the refuge, but if an animal leaves the refuge/bombing range area, the Service intends to recapture it and return it to captivity, utilizing the capture collar that each animal will wear upon release. Upon receiving a coded radio signal, this collar is activated, the wolf is sedated, and then the animal is located by radio transmitter signal. Should the capture collar fail, individual animals would be tracked by transmitter and darted utilizing a standard gas powered capture gun. The use of live traps in this particular habitat type, coupled with a high black bear population, would be cost prohibitive and inefficient. A basic premise adopted by the Service for this project is that when a red wolf must be recaptured, it should be done as quickly and humanely as possible.

The North Carolina Farm Bureau stated that livestock owners should be allowed to take red wolves that are engaged in livestock depredation, rather than having to wait for a Fish and Wildlife Agent or State Wildlife Conservation Officer to prove that depredations were actually occurring.

Response: Since an ample prey base exists on the refuge/bomb range area, the Service sees very little likelihood of conflicts with the small amount of livestock which exists in Dare County. In the unlikely event one or more red wolves should stray far enough from the refuge to encounter livestock, the Service would ask that local farmers immediately contact the refuge manager. However, if one or more red wolves are actually preying on livestock, Service or State employees would be empowered to take the offending animals. Furthermore, nothing in the proposed rule was intended to interfere with a livestock owner actually protecting his property from other predators such as wild dogs, which are a much more probable threat than red wolves.

3. Comments Concerning Hunting and Trapping on the Refuge

The Executive Director of the North Carolina Wildlife Resources Commission expressed the support of his agency for the project so long as traditional hunting and trapping on the refuge is permitted.

The Humane Society of the United States expressed opposition to hunting and trapping on the refuge after red wolves are released. Similarly, the Wildlife Information Center stated that since the Service could not guarantee that red wolves will not be shot or accidentally trapped, all hunting and trapping should be prohibited.

The Defenders of Wildlife cautioned that the Service may have been premature to judge that no traditional uses of the refuge would jeopardize the wolves or interfere with the success of the project.

Response: The Service's underlying philosophy regarding the compatibility of the red wolf reintroduction and traditional recreational uses of the refuge is based on both immediate and long-term conservation needs. First of all, the whole intent of the experimental population provision of the Act is to eliminate the requirement for absolute protection of reintroduced animals, in order to foster the chances of reintroduction. The insistence of a guarantee that no animals will ever succumb to man-caused factors could preclude the use of this innovative provision of the Act. Without management flexibility, the current reintroduction effort would be much less likely to succeed. The Service's second premise deals with the long-term prospects this species has for recovery in the wild. The recovery plan calls for establishment of three self-sustaining populations before the species can be considered for possible downlisting. If traditional uses of the refuge have to be significantly modified or altered to accommodate red wolves, it is going to be very difficult, if not impossible, to approach other public land management agencies to permit wolf reintroductions on their lands. The best information indicates that known uses such as hunting and trapping are compatible with red wolf introduction. As information is gathered during the monitoring of released wolves, we will continue to evaluate the compatibility of these uses with the needs of the red wolf and make appropriate determinations.

4. Comments Regarding Removal of Wolves From the Captive Population

The Wildlife Information Center expressed concern over the number of red wolves (8–12) proposed for removal from the total captive population of 63 animals; they suggested that no more than six captive red wolves be selected for the project.

The National Wildlife Federation expressed a related concern that the Service may be overoptimistic in concluding that all animals can be quickly replaced through captive breeding, since it has taken 10 years to build up the current captive population; they urged the Service to minimize losses of released wolves rather than to rely on supplementing the reintroduced population with additional captive red wolves.

Response: The Service is confident that any wolves lost in the reintroduction attempt at Alligator River Refuge can be replaced in the next breeding season. The Service currently plans to limit releases to no more than 12 animals. This number is based on a proportion of the predicted eventual population the area will sustain (25 to 35 animals of all age classes), which in turn reflects the magnitude of the available prey base, the acreage available to the project, and the approximate home range of the animals, as determined in Texas and Louisiana during the late 1970s by radio telemetry investigations. The reproductive vigor of the red wolf has been amply demonstrated at the

Services' captive breeding project in Washington State and at other captive facilities; in fact, since publication of the proposed rule, the captive breeding program has produced 17 additional offspring, bringing the present captive population to 80 red wolves in the program nationwide. Furthermore, the overall captive population size could be even greater, except that it has been necessary to suppress reproduction in order to keep numbers within the capability of current facilities. Thus the Service has carefully evaluated the numerical status of this species and has determined that the taking of 8 to 12 animals from this captive assemblage would pose no threat to the survival of the species, even if all of these animals succumb to natural or man-caused factors.

5. Comments on Ecological Suitability of the Refuge to Support Red Wolves

The President of the North Carolina Farm Bureau Federation stated his view that ". . . the introduction of another predator into the refuge would be a mistake, and that the impact that this would have on other wildlife populations in the area (such as black bears) has not been fully considered." The American Farm Bureau similarly noted that there has been no determination of the effects of the red wolf reintroduction ". . . on all wildlife and plants within the 'food chain.' "

Response: Although little factual data is available regarding the interactions of red wolves and black bears, there is abundant evidence that black bears and gray wolves coexist in harmony in Minnesota and throughout Canada and Alaska. More generally, based on previous trial releases of red wolves in South Carolina in 1976 and 1978 and on the limited historical knowledge of the species in Louisiana and Texas, the Service does not expect the red wolf to disrupt any of the dynamic natural process on the refuge. During the 6-month acclimation period, surveys of pre-release biomass will be conducted in various habitat types on a per acre basis. After the wolves are released, these surveys will be duplicated and trends, if any, determined.

The American Farm Bureau expressed concerns that the Service had no data, but had only made a guess, about whether there is an adequate prey base to support a population of red wolves on the refuge. It also questioned whether the refuge is within the historic range of the red wolf and whether the habitat is suitable for the species, requesting the Service to specify how much of the total acreage is actually usable.

Response: The Service has conducted extensive small mammal surveys on portions of the refuge, especially in habitats that appeared to sustain a low density of probable prey species, such as the large acreage of pond pine pocosin north of U.S. 64. This habitat type was found to sustain at least moderate populations of white-footed and golden mice, southeastern shrews, marsh rabbits, and gray squirrels. This area is also inhabited by a fair population of bobcats. Other portions of the refuge tend to have more edge effect and thus carry higher populations of marsh rabbits and a variety of other small mammals which would serve as a substantial prey base for the red wolf.

Regarding historic range of the species, current investigations have determined that the red wolf occurred within recent historic time as far north along the Atlantic seaboard as Delaware and southeastern Pennsylvania. In terms of habitat suitability, the limited available historical information indicates the red wolf preferred areas with thick understory. In earlier times these were overflow river swamps with extensive canebrakes and associated vegetation. Habitats found within the Alligator River Refuge typify this habitat type to a large degree. About 70 percent of the refuge is made up of impenetrable pocosins of various types, and 20 percent or so is fresh water swamp habitat along the Alligator River. The remaining habitat of the refuge is made up of a pine ridge, roads, streams, and small clearings. The Service expects the red wolf to utilize all of these habitats but primarily to utilize the thick pocosins, which total more than 100,000 acres in the refuge/bombing range complex.

6. Comments on Documentation and Public Notification of the Proposal

The American Farm Bureau objected to the fact that the Service has not prepared a "legally sufficient biological assessment" for the project.

Response: The Service believes that the Farm Bureau has misunderstood the nature of such a document. Under 50 CFR 402.12(b)(1) [see 51 FR 19926, 19960 (June 3, 1986)] a biological assessment must be prepared for any Federal action that is a major *construction* activity prior to entering into consultation under section 7(a)(2). Such a document has no relationship to the process of designating an experimental population or reintroducing red wolves under section 10(j) of the Act, because the establishment of *this* experimental population does not involve construction activities that fall within the definition of "major construction activity," nor does this rule constitute a "major Federal action" for purposes of the National Environmental Policy Act. See 50 CFR 401.02 [51 FR 19926, 19958 (June 3, 1986)]. If the Farm Bureau's intent was to refer to general biological studies of the suitability of the area, the Service reviewed all available information on refuge habitats and red wolf habits, conducted studies of the prey base on the refuge, and consulted wolf experts prior to preparation of the proposal, to insure that there is a scientific consensus that the refuge is indeed suitable for a red wolf reintroduction. These are documented in the Service's technical proposal.

The American Farm Bureau went on to express the opinion that the Service had not adequately considered State and local laws and the impact on local agricultural interests. It also stated that the draft environmental assessment should have received wider distribution to possible affected agencies and agricultural interests within the State.

Response: The project has been carefully reviewed at various levels within the State government of North Carolina. The Wildlife Resources Commission has been aware of the proposal from its inception, and the project has been presented twice in detail to the wildlife commissioners at scheduled meetings with agendas publicized in advance. The Service consulted in detail with the North Carolina Commissioner of Agriculture and with other staff of the State Department of Agriculture. Staff of the Animal and Plant Health Inspection Service of the Federal Department of Agriculture (which is responsible for animal damage control activities) were likewise consulted. At the local level, the Dare County Commissioners have reviewed the project and publicly voted to support the proposal. No State or local entity has advised the Service of any laws that this proposal would violate. Regarding the environmental assessment, the announcement of its availability was included in the proposed rule, copies of which were provided to numerous interested parties throughout the State. Two requests for copies of the environmental assessment were received, and copies were provided. As noted elsewhere in this rule, the Service has determined that this action is not a major Federal action necessitating the preparation of an Environmental Impact Statement.

7. Other Red Wolf Protection Issues

The National Wildlife Federation also urged the Service to closely monitor the

wolves and their offspring for diseases, such as distemper and canine parvo virus, that can be transmitted to the wolves from domestic dogs on the refuge; expressed concerns about releases of deer dogs near red wolf acclimation-release sites during the hunting season; and suggested that speed limit warning signs and "rumble strips" be installed on portions of State Highways 64 and 264 within the refuge to alert motorists of the possible presence of red wolves in the area.

Response: The Service agrees with the intent of each of these comments. Close monitoring of wolves and their offspring for diseases, injuries, behavioral abnormalities, and other problems will be a routine part of the reintroduction. Access to the acclimation/release site areas will be limited within a one-half mile radius of each site. Regarding measures to limit speeds on highways, the Service agrees conceptually with these suggestions, and will discuss the issues with the North Carolina Department of Transportation.

The National Wildlife Federation also expressed concern over the use of language in the proposal that perpetuates the fallacy that wolves are a threat to human life, and recommended that the Service delete all references in the final regulation to "life threatening" conflicts.

Response: The Service certainly agrees that red wolves released into the refuge for the reintroduction attempt will in reality never prove a threat to any humans in the area. In fact, as the results of the 1978 experiment in South Carolina showed, it is very likely that humans will rarely, if ever, even *see* red wolves in the vast and impenetrable habitat of the refuge. However, as noted previously, under some circumstances it might be difficult or impossible to distinguish a red wolf from a more realistic threat, a feral dog. The Service will expect that a person in such circumstances will use all reasonable means to avoid a response not proportionate to the perceived threat, but in a potentially life-threatening situation the Service does not expect a person to hesitate in self-defense or defending others while attempting to make an identification of the animal. A related consideration for the Service in developing the special rule has been the need to foster public acceptance of the red wolf population. The knowledge people have about the degree of threat posed by a red wolf still varies widely. At the end of the 5-year experimental phase of the project, the Service will be most interested in assessing changes in public attitude regarding wolves. During the interim, the Service is of the opinion that the language as expressed in the proposed rule should be retained.

National Environmental Policy Act

An environmental assessment under NEPA has been prepared and is available to the public at the Service's Asheville Field Office (see **ADDRESSES** section), Atlanta Regional Office (see **FOR FURTHER INFORMATION CONTACT** section), or the Office of Endangered Species, 1000 N. Glebe Road, Arlington, Virginia 22201 (202/235–2760). It has been determined that this action is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500 through 1508).

Executive Order 12291, Paperwork Reduction Act, and Regulatory Flexibility Act

The U.S. Fish and Wildlife Service has determined that this is not a major rule as defined by Executive Order 12291; that the rule would not have a significant economic effect on a substantial number of small entities as described in the Regulatory Flexibility Act (Pub. L. 96–354). The introduction site occurs within 15 miles of Atlantic Ocean resorts in a region along the Outer Banks that can be considered a high use area for vacations and wildlife enthusiasts. However, the mainland portion of Dare County is not in the vicinity of a high concentration of year-round inhabitants. The refuge has been set aside by the Federal government for wildlife use. The introduction of a nonessential experimental population into this refuge and the use by these animals of adjacent Federal lands is compatible with current utilization of the refuge and adjacent Federal lands and is expected to have no adverse impact on public use days. It is reasonable to expect some increase in visitor use of the refuge after the release of the red wolves. No private entities will be affected by this action. The rule as presented does not contain any information collection or record keeping requirements as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Authors

The principal authors of this rule are Warren T. Parker, Endangered Species Field Office, Asheville, North Carolina (704/259–0321), Marshall P. Jones, Atlanta Regional Office, Atlanta, Georgia (404/331–3583), and Peter G. Poulos, Office of Endangered Species, Washington, DC (202/235–2760).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is hereby amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Section 17.11(h) is amended by revising the entry for this "red wolf" species to read as shown below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
MAMMALS							
*	*	*	*	*	*		
Red wolf	*Canis rufus*	U.S.A. (SE U.S.A., west to central TX).	Entire except Dare, Tyrrell, Hyde, and Washington Counties, NC.	E	1	NA	NA
Do	do	do	U.S.A. NC-Dare, Tyrrell, Hyde, Washington Cos.	XN		NA	17.84(c)
*	*	*	*	*	*		

3. Section 17.84 is amended by adding new paragraph (c) as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(c) Red wolf (*Canis rufus*). (1) The red wolf population identified in paragraph (c)(9) of this section is a nonessential experimental population.

(2) No person may take this species, except as provided in paragraphs (c)(3) through (5) and (10) of this section.

(3) Any person with a valid permit issued by the Service under § 17.32 may take red wolves for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act and in accordance with applicable State fish and wildlife conservation laws and regulations;

(4) Any person may take red wolves in defense of that person's own life or the lives of others, *Provided* that such taking shall be immediately reported to the refuge manager, as noted in paragraph (c)(6) of this section.

(5) Any employee or agent of the Service or State conservation agency who is designated for such purposes, when acting in the course of official duties, may take a red wolf if such action is necessary to:

(i) Aid a sick, injured, or orphaned specimen;

(ii) Dispose of a dead specimen, or salvage a dead specimen which may be useful for scientific study;

(iii) Take an animal which constitutes a demonstrable but nonimmediate threat to human safety, or which is responsible for depredations to lawfully present domestic animals or other personal property, if it has not been possible to otherwise eliminate such depredation or loss of personal property, *Provided* that such taking must be done in a humane manner, and may involve killing or injuring the animal only if it has not been possible to eliminate such threat by live capturing and releasing the specimen unharmed on the refuge.

(6) Any taking pursuant to paragraphs (c)(3) through (5) must be immediately reported to the Refuge Manager, Alligator River National Wildlife Refuge, Manteo, North Carolina, telephone 919/473-1131, who will determine disposition of any live or dead specimens.

(7) No person shall possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State fish and wildlife laws or regulations or the Endangered Species Act.

(8) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (c) (2) through (7) of this section.

(9) The site for reintroduction of red wolves is within the historic range of the species in the State of North Carolina, on the Alligator River National Wildlife Refuge, Dare County; the adjacent Tyrrell, Hyde, and Washington Counties are also included in the experimental population designation. The red wolf is otherwise extirpated from the wild, so there are no other extant populations with which this experimental population could come into contact.

(10) The reintroduced population will be continually monitored closely during the life of the project, including the use of radio telemetry as appropriate. All animals will be vaccinated against diseases prevalent in canids prior to release. Any animal which is sick, injured, or otherwise in need of special care, or which moves off Federal lands, will be immediately recaptured by the Service and given appropriate care. Such an animal will be released back to the wild on the refuge as soon as possible, unless physical or behavioral problems make it necessary to return the animal to a captive breeding facility.

(11) The status of the population will be reevaluated within 5 years of the effective date of this regulation to determine future management status and needs. This review will take into account the reproductive success of the mated pairs, movement patterns of individual animals, food habits, and the overall health of the population.

Dated: October 24, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-26048 Filed 11-18-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 675

[Docket No. 51180-5180]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area, and the Gulf of Alaska; Inseason Adjustments

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

ACTION: Notice of inseason adjustments.

SUMMARY: NOAA announces the apportionment of amounts of the Alaska groundfish reserves to supplement domestic annual harvest (DAH) and total allowable level of foreign fishing (TALFF) of certain groundfish species under provisions of the fishery management plans (FMPs) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Groundfish Fishery of the Gulf of Alaska. The intent of this action is to assure optimum use of all Alaskan groundfish species.

DATES: Effective November 14, 1986. Comments will be accepted December 1, 1986.

ADDRESSES: Comments should be mailed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service (Regional Director), P.O. Box 1668, Juneau, Alaska 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet Smoker (Resource Management Specialist, Alaska Region, NMFS), 907-586-7229.

SUPPLEMENTARY INFORMATION:

Background

Bering Sea and Aleutian Islands Area (BSA)

The total allowable catches (TACs) for various groundfish species are established under the FMP which was developed by the North Pacific Fishery Management Council under the Magnuson Fishery Conservation and Management Act and is implemented by regulations appearing at 50 CFR 611.93 and Part 675. The TACs are apportioned

initially among DAH, reserve, and TALFF. DAH, in turn, is composed of domestic annual processing (DAP) and joint venture processing (JVP) fisheries.

Under § 675.20(b), crossreferenced at § 611.93(b)(2), the reserve amount is to be apportioned to DAH and/or to TALFF during the fishing year. As soon as practicable after April 1, June 1, and August 1 or on other dates as are deemed necessary the Secretary of Commerce (Secretary) reapportions to DAH all or part of the reserve that he finds will be harvested by U.S. vessels during the remainder of the year, and reapportions to TALFF the remaining portion of the reserve that will not be reapportioned to DAH, except that part or all of the reserve may be withheld if an apportionment would adversely affect the conservation of groundfish resources or prohibited species. When the initial DAH and TALFF for 1986 were established (51 FR 956, January 9, 1986), DAH and TALFF were supplemented with 29,857 metric tons (mt) from the initial 300,000 mt reserve, reducing the reserve to 270,143 mt. On April 25, 1986, the JVP portion of DAH for pollock (Aleutian Islands subarea), yellowfin sole, and other flatfish and TALFF for pollock (Bering Sea subarea) were supplemented by 135,072 mt from the reserve (April 30, 1986, 51 FR 16058). On May 14, 1986 the Bering Sea area sablefish DAP portion of DAH was supplemented with 500 mt from the reserve (May 19, 1986, 51 FR 18333). On July 10, the Bering Sea area sablefish and Pacific ocean perch DAP portions of DAH were supplemented by 400 mt and 250 mt, respectively, from the reserve (July 15, 1986, 51 FR 25529).

On July 31 DAH and TALFF were supplemented by 112,280 mt from the reserve, reducing it to 21,641 mt (July 31, 1986, 51 FR 27412) as follows: Apportionments from reserve were made to the following Aleutian Island subarea categories; 15,380 mt was transferred to JVPs for pollock (15,000 mt), rockfish (250 mt), sablefish (80 mt), and squid (50 mt). In the Bering Sea subarea, 20,000 mt of reserve for pollock was transferred to pollock JVP and the DAP category "other species" was supplemented by 500 mt from reserves. (This action also transferred 40,000 mt of the pollock DAP to JVP).

Apportionments to TALFF were made from the nonspecific reserves of Bering Sea subarea pollock (51,228 mt), yellowfin sole (14,425 mt), "other flounders" (4,330 mt), and Pacific cod (6,417 mt).

On September 22, the Bering Sea sablefish DAP and TALFF were supplemented by 200 mt and 10 mt, respectively, from the reserve, reducing it to 21,431 mt (51 FR 33613).

Gulf of Alaska (GOA)

The FMP for the Groundfish of the Gulf of Alaska, also developed by the Council under the Magnuson Act, is implemented by regulations appearing at 50 CFR 611.92 and Part 672. It establishes optimum yields (OYs) for various groundfish species which are apportioned initially among DAH, reserve, and TALFF. Under 50 CFR 611.92(c)(1)(ii) and 672.20(c), the Secretary may reapportion reserve and DAH amounts to DAH and/or TALFF on the same schedule as the BSA. The interim apportionments of OY for each category of groundfish were published on January 9, 1986 (51 FR 956). On March 4, the JVP of pollock in the Western/Central Regulatory Area was increased by 18,000 mt by transferring 15,960 mt from reserve to DAH and allocated to JVP and 2,040 mt from DAP to JVP (51 FR 7446). The revised initial apportionments were published by emergency interim rule on May 28 (51 FR 19203) and were extended through November 18 (August 25, 1986, 51 FR 30218).

Reapportionments (Table 1)

The following actions are taken by this notice to reapportion specifications in the BSA and GOA fisheries.

To the BSA JVP

Due to unanticipated high catches by joint ventures in the Bering Sea subarea, the JVPs of the following species must be increased: pollock, 30,000 mt; yellowfin sole, 9,000 mt; arrowtooth flounder, 800 mt; Pacific cod, 15,000 mt; Atka mackerel, 1,200 mt; sablefish, 100 mt; and "other species", 1,000 mt. For pollock, arrowtooth flounder, and Pacific cod, the specified amounts are transferred from DAP, because the Regional Director has determined that these amounts will not be needed by DAP fisheries in 1986. For yellowfin sole, Atka mackerel, sablefish, and "other species," the amounts are apportioned from the nonspecific reserve. The new yellowfin sole TAC is 218,500 mt, 1 percent above the current TAC. The new Atka mackerel TAC is 32,050 mt, 1 percent above the current TAC. The new sablefish TAC is 3,387 mt, 1 percent above the current TAC. The Regional Director has found that the taking of these revised TAC amounts will not result in overfishing.

In the Bering Sea subarea, a fall DAP fishery for rock sole, a species currently included in the "other flatfish" category, has been proposed. Therefore, the DAP of "other flatfish" is increased by 5,000 mt, transferred from JVP.

To TALFF/BSA (Table 1)

The Regional Director has determined that in the Bering Sea subarea, 20,000 mt of the "other flatfish" JVP will not be used by DAH fisheries and is therefore available for transfer to TALFF. To provide sufficient bycatch for the increased flatfish TALFF fisheries, 2,300 mt of Pacific cod is transferred from DAP to TALFF. Similarly, 10 mt of sablefish is transferred to the Bering Sea subarea sablefish TALFF from the nonspecific reserve.

To JVP/GOA (Table 2)

Proposed joint venture operations on pollock in the Western and Central Gulf this fall could take an additional 10,000 mt of pollock. The DAP catch of pollock to date is less than 5,200 mt of the 40,000 mt DAP apportionment. The Regional Director therefore finds that the 1,860 mt reserve amount and 8,000 mt of the DAP apportionment of pollock in the Western/Central regulatory areas will not be taken by DAP fisheries and are therefore transferred to JVP.

Comments and Responses

The Assistant Administrator for Fisheries finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to benefit groundfish fishermen who otherwise would have to forego substantial amounts of other groundfish species if fisheries were closed as a result of achieving previously specified JVPs or TACs. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

Classification

This action is taken under the authority of 50 CFR Parts 611, 672, and 675 and complies with Executive Order 12291.

List of Subjects in 50 CFR Parts 611, 672, and 675

Fisheries.

(16 U.S.C. 1801 *et seq.*)

Dated: November 13, 1986.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

TABLE I.—BERING SEA/ALEUTIAN ISLANDS REAPPORTIONMENTS OF TAC

[In metric tons]

Bering Sea subarea	Current	This action	Revised
Pollock (TAC (1,200,000) EY [1] (1,100,000)):			
DAP	101,755	−30,000	71,755
JVP	750,000	+30,000	780,000
TALFF	348,245		348,245
Yellowfin sole (TAC (218,500); EY (310,000)):			
DAP	1,030		1,030
JVP	144,300	+9,000	153,300
TALFF	64,170		64,170
Arrowtooth flounder (TAC (20,000); EY (20,000)):			
DAP	1,805	−800	1,005
JVP	1,667	+800	2,467
TALFF	13,528		13,528
Other flatfish (TAC (124,200); EY (150,000)):			
DAP	4,192	+5,000	9,192
JVP	98,850	−25,000	73,850
TALFF	16,158	+20,000	36,158
Pacific cod (TAC (223,047); EY (165,000)):			
DAP	133,394	−17,300	116,094
JVP	50,830	+15,000	65,830
TALFF	38,823	+2,300	41,123
Atka mackerel (TAC (32,050; EY (30,800)):			
DAP	10		10
JVP	30,790	+1,200	31,990
TALFF	50		50
Sablefish (TAC (3,387); EY (3,000)):			
DAP	2,926		2,926
JVP	246	+100	346
TALFF	105	+10	115
Other Species TAC (24,130); EY (51,200):			
DAP	610		610
JVP	7,000	+1,000	8,000
TALFF	16,520		16,520
Total (TAC=2,000,000):			
DAP	286,949	−43,100	243,849
JVP	1,123,763	+32,100	1,155,863
RES	21,431	−11,310	10,121
TALFF	567,857	+22,310	590,167

[1] EY means equilibrium yield.

TABLE 2.—GULF OF ALASKA REAPPORTIONMENTS OF OY

[In metric tons]

Western/Central area	Current	This action	Revised
Pollock (OY=100,000):			
DAP	40,000	−8,000	32,000
JVP	58,000	+9,860	67,860
TALFF	140		140
RES	1,860	−1,860	0

[FR Doc. 86-26038 Filed 11-14-86; 10:49 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 223
Wednesday, November 19, 1986

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

[Amdt. No. 2; Docket No. 3694S]

General Administrative Regulations—Appeal Procedure

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend Subpart J to Part 400 in Chapter IV of title 7 of the Code of Federal Regulations (CFR), known as 7 CFR Part 400—General Administrative Regulations—Subpart J, Appeal Procedure. The intended effect of this rule is to prescribe procedures under which a person who has been determined by FCIC as being ineligible for crop insurance, or whose contract is determined by FCIC to be ineligible for reinsurance, may request review of the determination of ineligibility made by FCIC. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATES: Written comments, data, and opinions on this proposed rule must be received not later than January 20, 1987, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulations 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1990.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

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

Background

The Appeal Regulations provide administrative procedures under which any person or organization may request and obtain review and appeal of determinations made by FCIC. The regulations, found at 7 CFR Part 400, Subpart J, and published in the **Federal Register** on Wednesday, February 12, 1986 at 51 FR 5147, set forth the levels of appeal and prescribe the manner and format of such procedure.

It is the intention of the Corporation to compile a list of those persons who have been found ineligible for participation in the crop insurance program because of non-payment of premium, fraud or other violation of program regulations. No person would be included on this list until they have been given the opportunity to appeal this determination in accordance with the appeal regulations of the Corporation. Presently, all insureds are given the opportunity to appeal determinations by the Corporation which may result in inclusion on this list or to defend their actions in litigation.

The Corporation now also intends to include persons who have been found to have committed similar actions when insured under crop insurance policies issued by Multi-Peril Crop Insurance (MPCI) companies and reinsured by the Corporation. It is the intention of the Corporation to distribute this ineligible list to the MPCI companies and refuse to reinsure any crop insurance policies sold to any person who is identified on this list.

Further, it is the intention of the Corporation to require that the MPCI companies require any applicant for multi-peril crop insurance to state whether a multi-peril crop insurance policy has been terminated by the Corporation or any MPCI company and the basis for that termination. Any false answer to that question would be a basis for termination of a policy after acceptance of the application if the person is later identified as being on the ineligible list.

In order to assure that only those persons are placed on the ineligible list who have violated material provisions of their crop insurance contracts, the Corporation proposes to open the appeal procedure to those persons who are terminated by MPCI companies because of those reasons which would cause placement on the ineligible list if those individuals had been terminated by the Corporation. The appeal would not be from the termination by the MPCI company. The appeal would be solely for the purpose of determining whether the individual should be placed on the ineligible list by the Corporation.

The MPCI companies would be required to advise the Corporation of all contract terminations and the reasons for those terminations. Those persons who have been terminated for reasons which would give rise to placement on the ineligible list will be notified of the Corporation's proposal to place their names on the ineligible list and the reason for that proposal. They would be

given the opportunity to appeal that determination in accordance with this subpart. The Corporation is in the process of establishing a system of records under the terms of the Privacy Act for the maintenance of the ineligible list.

The information collection control numbers assigned by Office of Management and Budget (OMB) are found at Subpart H to 7 CFR Part 400.

FCIC is soliciting public comment on this proposed rule for 60 days after publication in the **Federal Register.** All written comments received on this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 400

Crop insurance; Administrative regulations—review and appeal procedure.

Proposed Rule

PART 400—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend 7 CFR Part 400, Subpart J—General Administrative Regulations; Appeal Procedure, in the following instances:

1. The authority citation for 7 CFR Part 400, Subpart J, continues to read as follows:

Authority: Pub.L. 75–430, 52 Stat. 72 et seq., as amended, (7 U.S.C. 1501 et seq.).

2. 7 CFR 400.92 is amended by adding paragraph (g) to read as follows:

§ 400.92 Right of appeal.

* * * * *

(g) Any person who has been notified by the Corporation that, because of actions of the person concerning the present or previous Corporation or reinsured crop insurance contract, such person is ineligible to purchase crop insurance from the Corporation and that the Corporation will not reinsure any crop insurance contract issued to such person by a private insurance company.

Done in Washington, DC on October 17, 1986.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86–26089 Filed 11–18–86; 8:45 am]

BILLING CODE 3410-08-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 211 and 262

[Docket No. R-0584]

Rules of Procedure; Assessment of Fees for Supervision of Edge Corporations and for Processing Applications

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking.

SUMMARY: The Board of Governors of the Federal Reserve System, as part of an ongoing program of budgetary restraint, has decided to seek public comment on a limited proposal to assess fees for certain of its supervisory services. The Board is advancing this proposal as a possible revenue enhancing measure to supplement prior Board actions to streamline operations and eliminate unnecessary functions. This proposal is designed to recover part of the identifiable costs for certain supervisory functions. The Board is seeking comment on whether such a system of fees should be imposed and, if so, whether the proposed fee schedules are equitable and appropriate.

The Board has proposed that fees be assessed for supervision of Edge corporations and for a variety of final applications that are filed by bank holding companies, state member banks, and companies or individuals seeking to acquire control of such banking organizations. The Board has proposed to assess fees for general supervision and inspection *only* in the case of Edge corporations in an effort to avoid duplicating assessments by other bank regulatory agencies. In addition, the Board has proposed fixed fee schedules that are limited to recovering costs for the supervisory activities and the processing of applications on an average basis rather than a variable fee schedule based upon costs in an individual case.

DATE: Comments must be received by January 5, 1987.

ADDRESS: All comments, which should refer to Docket No. R–0584, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, or should be delivered to the Office of the Secretary, Room 2223, Eccles Building, 20th Street and Constitution Avenue, NW, between the hours of 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in Room 1122, Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Frederick M. Struble, Associate Director, (202) 452–3794, Don E. Kline, Associate Director, (202) 452–3421, Kevin M. Raymond, Supervisory Financial Analyst (202) 452–2573, or James V. Houpt, Supervisory Financial Analyst, (202) 452–3358; Division of Banking Supervision and Regulation; or for users of Telecommunications Devices for the Deaf, Earnestine Hill or Dorothea Thompson, (202) 452–3244, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

Federal and state supervision and regulation of banking organizations is designed to achieve a variety of public policy objectives, including: (1) Promoting the stability of the banking system and, more generally, the stability of financial markets and the economy at large, (2) protecting depositors and the viability of the federal deposit insurance fund, (3) preserving competition in local and regional banking markets, and (4) limiting dislocations in local communities resulting from bank failures. Individual banking organizations benefit from the system of government supervision and regulation designed to further these public policy objectives. Indirectly, they benefit from the stability of the system as a whole, from the public confidence that such stability engenders, and from efforts to limit or contain problems encountered by individual banking organizations. More directly, they benefit from regulations, off-site review, and on-site inspections and examinations designed to prevent problems from developing and to assist in identifying and correcting problems that may develop.

Individual organizations submitting applications to the Board of Governors of the Federal Reserve System ("Board") also benefit directly. The process of review sometimes detects existing problems of applicant organizations or organizations to be acquired. Such review may also identify potential problems that might arise as a result of the transaction that is the subject of the application. In addition to such screening, it is through the application process that individual organizations are able to expand and increase profit opportunities in a manner consistent with established public policy objectives.

Individual banking organizations, as direct beneficiaries, have been asked to bear a significant portion of the costs of bank supervision and regulation. State-chartered banking organizations, in

general, pay assessments and fees that cover the operating costs of the bank supervisory agencies of their state. In one-half of the states, the assessments and fees paid by state chartered banks go into the general funds of the state, and the agency operates on an annual appropriation by the legislature; in another 22 states the revenues are deposited in a special fund to be used only to cover the expenses of the banking agency, and the agency's budget is subject to approval by the legislature. In the three other states, all revenues are deposited with and controlled by the banking department, subject to the review of either the legislature or a state finance department. The extent to which operating budgets coincide with revenues collected varies from state to state. In cases where a misalignment exists, it appears that revenues generally exceed costs.

At the federal level, the supervisory costs incurred by individual bank supervisory agencies are paid in a variety of ways, including general assessments, hourly charges for examinations, fees assessed for processing applications and deposit insurance premiums. In part, such costs are also met from returns on investments or by means other than a direct charge to individual banking organizations.

The Board currently does not levy charges for any of its supervisory or regulatory activities. Prior to 1930, the Federal Reserve System was required by law to charge for its examination of member banks, but in that year Congress, at the recommendation of the Board, and because of concerns about double assessment by the Board and state supervisors, amended section 9 of the Federal Reserve Act to eliminate mandatory assessment of Federal Reserve member banks for examination expenses. The Board was given explicit authority to decide whether to assess state member banks for the cost of their examinations or to absorb these costs. (*See* 12 U.S.C. 326, as amended June 26, 1930 (46 Stat 814).) The Board has not charged state member banks for supervision since 1935. It has never charged for supervision of bank holding companies or of foreign branches of U.S. banks. Prior to 1958 the Board at times levied charges to cover part of its costs incurred in conducting examinations of Edge corporations. The Board has not levied such charges since 1958.

Purpose of the Proposed Rulemaking

The Board is seeking comment on this proposal to depart from past practice and begin to charge fees to banking organizations for supervisory and regulatory oversight. The Board will evaluate whether the budgetary benefits of such a proposal in the form of additional revenue would be outweighed by possible adverse effects.

This proposal is advanced as a budgetary matter, to explore possible sources of additional revenue to complement actions already taken to streamline operations and eliminate unnecessary functions. The Board believes that in light of its expanded supervisory responsibilities since the passage of the Bank Holding Company Act in 1956, and in light of the fact that certain of these supervisory responsibilities would not result in the sort of double assessments that provided the basis for its efforts to eliminate fees and assessments in the past, it may be appropriate to request the individual organizations that benefit most directly from Board supervisory activities to assume a portion of the costs of that supervision.

The proposal, therefore, is designed to recover the costs of certain supervisory activities—to shift a portion of the costs of such supervision to those entities which receive the greatest direct benefit of such supervision—but to do so in a manner that, in the Board's view, will not be so burdensome as to alter business decisions. It should be stressed that the Board is making this proposal in the context of ongoing budgetary review, and it seeks comments upon the scope of services for which fees might be charged, the appropriate levels of such fees, and any adverse effects upon either the activities of banking institutions or the supervisory process that may result from the imposition of such fees.

There are two basic areas of Board responsibility for which the Board may impose fees: (1) General supervision, including inspection, examination, review of various types of reports of condition, and such oversight of corrective measures as may be necessary, and (2) applications, including those for acquisition of a bank, for geographic expansion or expansion into a new type of business activity, for change in business structure, and for acquisition of or change in control of a banking organization. The Board has considered assessment of fees in the first of these two areas and has proposed a very limited fee schedule in the supervisory area relating only to Edge corporations (as defined in section 25(a) of the Federal Reserve Act, 12 U.S.C. 611 *et seq*). In the applications area, however, the Board has proposed a broader range of fee schedules covering virtually all types of applications that come before the Board except those for Federal Reserve System membership.

Fees for Supervision of Edge Corporations

As noted above, the Board based its recommendation that Congress free it from the requirement to charge for its supervision of state member banks on the argument that banking organizations should not be required to pay a double assessment for government supervision. The Board also cited this consideration in deciding not to charge for the supervision of Edge corporations, noting that many of them are subsidiaries of commercial banks, which are assessed on the basis of their consolidated assets (including those of the Edge corporations) to cover costs of supervising and regulating the entire organization.

In recent years, however, significant numbers of Edge corporations have been established by foreign banks and by nonbanking firms, which are not subject to assessment by other U.S. banking agencies. Double assessment is not an issue in these cases. Moreover, while most Edge corporations continue to be owned by institutions that do pay assessments or fees to other banking agencies for their general supervision, only the Board specifically examines and supervises these Edge corporations. Section 25(a) of the Federal Reserve Act permits the Board to assess fees for supervision of Edge corporations (12 U.S.C. 611).

The Board considered two approaches to recover the costs of supervising Edge corporations—charging on the basis of examiner time devoted to examinations or charging annual assessments on the basis of an organization's size. While each approach has certain advantages, the Board has proposed to adopt a schedule of annual assessments based on the total assets of the Edge corporations. A significant proportion of the costs of supervising Edge corporations are incurred for various off-premises activities—collection and review of reports and other data, formulation of regulations, and monitoring of activities for compliance. Because on-site examinations are only part of a comprehensive supervisory system, the Board believes an annual general assessment based on an institution's size is a more suitable approach.

A general assessment would also be easier to administer and of greater benefit to the Board's budgeting process since the amounts assessed annually

would be more predictable. This approach would avoid potential disputes with Edge corporations about the accuracy of examiners' time records and the efficiency of their work. It also would avoid an additional recordkeeping burden for examiners. Moreover, a general assessment would assist the examined institutions to budget for this cost and would allow corporations experiencing serious difficulties to correct their problems without additional administrative fees for more frequent and longer examinations.

Table 1 contains a proposed schedule of annual assessments for Edge corporations. The proposed schedule is on a sliding scale based on the size and type of institution to be supervised. In Table 1, the Board distinguished between banking Edge corporations, which conduct banking activities in the United States relating to foreign or international transactions, and investment Edge corporations, which are essentially holding companies for foreign investments. The measure of size used for banking Edge corporations is their total assets, plus the volume of their outstanding standby letters of credit. Account has not been taken of other off-balance sheet items—either because of a lack of data or because the available data measure the volume of trading rather than the risk to an Edge corporation, as in the case of foreign exchange activities. The same measure would be used for investment Edge corporations, in their case consolidating the assets and standby letters of credit of their subsidiaries. It should be emphasized that the proposed schedule is tentative and subject to change based upon review of public comments.

Table 2 contains the general structure and size of Edge corporations and indicates revenues that would have been collected from these corporations in 1985. The size of banking Edges amounts to less than half that of investment Edges, while the estimated revenue in 1985 from these two types of Edge corporations would have been about equal. The estimated revenue to be derived from each type of Edge corporation is generally consistent with the relative amount of time the Board devotes to supervising that type of corporation. Less time is spent in supervising investment Edge corporations per dollars of assets, in part because their overseas subsidiaries (which account for virtually all of their assets) are examined only every two or three years. During the other years their assets and activities are reviewed using information available at the parent Edge corporation. In addition, since certain U.S. laws and regulations are directed only toward a corporation's domestic business, the examinations of foreign activities can be narrower in scope than those of banking Edge corporations.

The Board has not proposed to charge for supervision of organizations other than Edge corporations. However, the Board requests comment on the concept of expanding such supervisory fees or assessments to cover bank holding company inspection and supervision.

Fees for Processing Bank Holding Company, International Banking, and Other Applications

The analysis performed by the Board on the various types of applications that it processes is, as a general rule, not duplicated by other banking agencies. Board fees for processing such applications generally would not duplicate assessments by other bank supervisors. Similarly, authority sought in applications before the Board is not granted by any other federal banking agency, although in some cases organizations applying for authority to form a bank holding company or to acquire a national or state bank may be required to submit concurrent applications to other federal or state agencies. The Board has traditionally attributed both direct and support costs to the processing of applications. The total of such direct and support costs incurred by the Board in processing applications were estimated to be $18.0 million in 1985.

As in the case of Edge corporation supervision fees, the Board compared the advantages of basing a proposed fee schedule on staff time involved in processing an application with the alternative of establishing a standard schedule of fees that would be paid in filing specific types of applications. Although the hourly rate approach would provide a more exact method for charging applicants for the costs involved in processing specific applications, the Board believes that this approach would have significant administrative problems. There are a variety of Reserve Bank and Board functions involved in the applications process, and these functions involve personnel with a wide range of salary levels. Since applications staff members work on several applications at the same time, accounting for the hours spent on any given application and, therefore, the resulting billing would be quite complicated. Even more important, however, is the fact that issues raised by specific applications often have policy implications that go well beyond the acceptance or rejection of that application. Thus the costs incurred in addressing those issues should properly be spread over subsequent applications which raise the same issues.

Under a standard fee approach, on the other hand, a fee schedule could be established for each type of application or for a group of applications, with the fees set to reflect the relative amount of staff time generally spent on the various types of applications (or groups of applications). Under this approach, applicants would know in advance of the costs of processing an application. Those applicants raising significant issues of first impression, resolution of which would expedite processing of future applications, would not bear a disproportionate part of the costs of resolving such questions. There appear to be fewer administrative problems associated with this type of approach, since staff would not have to compile complex records of time spent on individual applications.

The proposed Table 3 would group the types of applications processed by four general categories and would establish a fee schedule necessary to permit recovery of 1985 processing costs. The Board recognizes that the volume of applications submitted varies from year to year, and that revenues would vary with the volume of applications.

The proposed fee schedule contained in Table 3, does not vary according to the size of the applicant or organization to be acquired. As a general rule—to which there are many exceptions—the applications of larger organizations within a given category are more complex than those of smaller organizations and require more processing time. Accordingly, the Board has also proposed, and seeks comment upon Table 4, a flexible rate schedule for different types of applications based upon the size of the applicant. Table 4 contains the same four groupings or categories of applications as Table 3. There is a maximum level of fees proposed on the theory that processing costs do not continue to increase in direct proportion to the size of a banking organization applicant. Moreover, there is no sliding scale for applications to install automated teller machines since the costs of processing these applications do not vary with size. The size of the applicant in Table 4 is to be computed on a pro forma consolidated assets basis, that is after including the assets of any acquisition that may be the subject of the application for which the fee is assessed. Table 4 presents an alternative to Table 3 that would recover the same level of 1985 costs.

Both Table 3 and Table 4 are based on a system of fees for all applications filed with the Board except for those involving membership in the Federal Reserve System. The Board believes that a fee for membership would in all cases constitute a double charge against state banks that must pay certain fees or assessments to state supervisory agencies. Moreover, such banks already bear additional costs in the form of the requirement to purchase stock in a Federal Reserve Bank.

This proposal also contemplates a fee only for final applications and notices filed with and accepted by the Federal Reserve System, including notices for change in control of a bank holding company or state member bank, applications by U.S. banking organizations to engage in activities in other countries, and applications for merger, acquisitions, branches and automated teller facilities. There will be no assessment for review of draft applications.

Specific Issues for Comment

The Board requests comment on the following issues raised by the proposed rulemaking.

1. The board seeks comment initially, and most importantly, on the advisability of charging fees for any of its supervisory or regulatory services. The Board requests comment on whether the assessment of fees would adversely affect the examination or inspection process or diminish cooperation and communication between the Board and supervised institutions to a significant degree. The board also seeks suggestions on how this proposal may be modified to minimize any such potential problems.

2. The Board seeks comment as a general matter on the scope of supervisory and application activities for which fees should be assessed. More particularly, the Board seeks comment on whether it should assess fees for the general supervision and inspection of bank holding companies. Such fees would not appear to duplicate charges by other regulatory agencies and some of the arguments in favor of fees for the supervision of Edge corporations would apply equally to bank holding companies.

3. In view of the tentative nature of the proposed fee schedules, the Board seeks comment on the following issues with respect to fees for supervision of Edge corporations:

(a) the distinction between banking & investment Edges,

(b) the use of an annual assessment as the basis for the fee schedules,

(c) the use of a sliding scale based on size,

(d) how the size of Edge corporations should be determined, including the use of some off balanced sheet items in determining size, and

(e) whether the proposed fee levels are equitable and appropriate.

4. The Board seeks comment on the following issues with respect to the fee schedules for applications:

(a) the grouping of applications in categories and appropriate placement of each type of application,

(b) whether to choose the fee schedule model or Table 3 or Table 4, and

(c) whether the proposed fees are appropriate and equitable.

5. The Board requests comment upon a variety of issues involved in administering the proposed fee schedules for applications should they be adopted, including:

(a) When fees should be paid,

(b) Whether fees should be charged for draft applications,

(c) Whether fees should be refunded upon withdrawal of the application,

(d) Whether fees should be assessed for emergency applications,

(e) Whether fees should be adjusted for dual applications for the same transaction,

(f) Whether fees should attach to notices as well as applications, and

(g) Whether fees should be charged for applications for membership in the Federal Reserve System.

(h) Whether the Board should separately recover the cost of publishing notice of applications in the Federal Register

TABLE 1.—PROPOSED ASSESSMENT SCHEDULE FOR EDGE CORPORATIONS

Total assets plus standby letters of credit (dollars in millions)	Assess this amount	Plus	Of excess over (dollars in millions)
Banking Edges: [1]			
$0 to 10 million	$2,000	0.000200	$0
10 to 25	4,000	0.000130	10
25 to 100	6,000	0.000120	25
100 to 500	15,000	0.000100	100
Over 500	55,000	0.000078	500
Investment Edges: [1]			
$0 to 10 million	1,000	0.000100	0
10 to 100	2,000	0.000060	10
100 to 1,000	7,500	0.000055	100
1,000 to 5,000	57,000	0.000040	1,000
Over 5,000	237,000	0.000032	5,000

[1] Banking Edge corporations conduct banking activities in the United States related to foreign or international transactions, while investment Edges are essentially holding companies for foreign investments. The size categories for banking Edges refer to their estimated assets, based on data they submit on FR 2886b reports. The size categories for investment Edges refer to the estimated consolidated assets of these corporations and their majority-owned (or otherwise controlled subsidiaries.

TABLE 2.—ESTIMATED REVENUE COLLECTABLE FROM EDGE CORPORATIONS BASED ON ASSESSMENT SCHEDULES SHOWN IN TABLE 1

Size category [1]	Number of corporations	Aggregate assets + standby L/C ($000,000)	Estimated revenue ($000)
Banking Edges:			
Less than $10 million	19	$94	$73
10 to 25	12	194	69
25 to 100	27	1,509	254
100 to 1,000	20	4,800	709
Over 500	11	14,095	1,204
Subtotal	89	20,692	2,309
Investment Edges:			
Less than $10 million	16	50	10
10 to 100	15	622	58
100 to 1,000	5	2,584	152
1,000 to 5,000	9	25,280	1,163
Over 5,000	2	21,421	839
Subtotal	47	49,957	2,222
Total	135	$70,649	$4,531

[1] The size categories for banking corporations refer to their estimated assets, based on data these corporations submit on FR 2886b reports. The size categories for investment Edges refer to the estimated consolidated assets of these corporations and their majority-owned (or otherwise controlled) subsidiaries, since these corporations are principally holding companies for foreign investments.

TABLE 3.—PROPOSED FEE SCHEDULE FOR PROCESSING APPLICATIONS SUBMITTED TO THE FEDERAL RESERVE SYSTEM

Type of application	Proposed fee	1985	
		Applications volume	Total revenue dollars in Thousands)
Category A: Bank holding company formations, acquisition of banks and acquisition of nonbanks (going concerns); bank holding company stock redemptions and changes in control; international investment applications	$8,000	1,958	$15,664
Category B: Initial foreign branches, Edge Act and other international applications, domestic bank mergers, and changes in control for state member banks	5,000	130	650
Category C: Bank holding company nonbank acquisitions (de novo) and export trading company notifications; state member bank branches, bank service corporations, investments in bank premises and issuance of capital notes by state member banks; additional foreign branch and investment notifications	2,500	628	1,570
Category D: ATM branches	1,000	64	64
Total		2,780	$17,948

TABLE 4.—PROPOSED FEE SCHEDULE FOR PROCESSING APPLICATIONS SUBMITTED TO THE FEDERAL RESERVE SYSTEM

Assets [1]		Proposed fee		
3Over	But not over	This amount	Plus	Of excess
Category A [2]				
$0	$150M	$5,000	0	—
150M	1B	5,000	.0000058	$150M
1B	5B	10,000	.0000012	1B
5B	10B	15,000	.0000009	5B
10B	—	20,000		
Category B [2]				
$0	$150M	$2,500	0	—
150M	1B	2,500	.0000029	$150M
1B	5B	5,000	.0000006	1B
5B	10B	7,500	.0000005	5B
10B	—	10,000	—	—
Category C [2]				
$0	$150M	$1,250	0	—
150M	1B	1,250	.0000014	$150M
1B	5B	2,500	.0000003	1B
5B	10B	3,750	.0000002	5B
10B	—	5,000		—
Category D [3] $1,000				

[1] Total assets are to be measured on a pro forma basis—that is, the applicant's total assets if its application is approved.

[2] For types of applications and notifications inlcuded in each category, see Table. 3

Regulatory Flexibility Act

The Board is sensitive to the impact of the proposed rule on small entities. Consequently, the Board is considering the imposition of fees for supervision of Edge corporations and for applications on a sliding scale based upon the size of the regulated organization. It has proposed comparatively limited fee assessments for smaller organizations. Moreover, the proposed schedules are designed only to recover partially those costs associated with a particular supervisory activity. The Board believes the fees payable will be sufficiently small as to have no significant impact on the financial stability of a reasonably profitable institution.

The proposed regulation imposes no additional information collection requirements.

List of Subjects

12 CFR Part 211

Banks, banking, Federal Reserve System, Foreign banking, Reporting and recordkeeping requirements, Export trading companies, Allocated transfer risk reserve, Reporting and disclosure of international assets, Accounting for fees on international loans.

12 CFR Part 262

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies.

For the reasons set forth above, the Board proposes to amend 12 CFR Parts 211 and 262 as follows:

PART 211—INTERNATIONAL BANKING OPERATIONS

It is proposed to amend 12 CFR Part 211 as follows:

1. The authority citation for Part 211 continues to read as follows:

Authority: Federal Reserve Act (12 U.S.C. 211 *et seq.*); Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*); the International Banking Act of 1978 (Pub. L. 95–369; 92 Stat. 607; 12 U.S.C. 3101 *et seq.*); the Bank Export Services Act (Title II, Pub. 97–290, 96 Stat. 1235); and the International Lending Supervision Act (Title IX, Pub. L. 98–181, 97 Stat. 1153).

2. Section 211. 4 is amended by adding paragraph (a)(7) to read as follows:

§ 211.4 Edge and Agreement Corporations.

(a) * * *

(7) *Fees.* Edge corporations shall be assessed an annual fee by the Board for supervision and inspection. The schedule of such fees is provided in § 262.3(d) of the Board's Rules of Procedure, 12 CFR 262.3(d).

* * * * *

PART 262—RULES OF PROCEDURE

It is proposed to amend 12 CFR Part 262 as follows:

3. The authority citation for Part 262 is revised to read as follows:

Authority: Administrative Procedure Act (5 U.S.C. 552); Bank Holding Company Act (12 U.S.C. 1841 *et seq.*); Federal Reserve Act (12 U.S.C. 211 *et seq.*); International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*) and the International Lending Supervision Act (12 U.S.C. 3901 *et seq.*).

§ 262.3 [Amended]

4. Paragraphs 262.3 (d) through (l) are redesignated as paragraphs 262.3 (e) through (m).

5. A new paragraph (d) is added to § 262.3 to read as follows:

§ 262.3 Applications.

* * * * *

(d) (1) The Board shall assess fees for the filing of all applications (except applications for membership in the Federal Reserve System) according to the following schedule.

FEE SCHEDULE FOR PROCESSING APPLICATIONS SUBMITTED TO THE FEDERAL RESERVE SYSTEM

Assets [1]		Processing fee		
Over	But not over	This amount	Plus	Of excess
Category A [2]				
$0	$150M	$5,000	0	
150M	1B	5,000	.0000058	$150M
1B	5B	10,000	.0000012	1B
5B	10B	15,000	.0000009	5B
10B		20,000		
Category B [3]				
$0	$150M	$2,500	0	
150M	1B	2,500	.0000029	$150M
1B	5B	5,000	.0000006	1B
5B	10B	7,500	.0000005	5B
10B		10,000		
Category C [4]				
$0	$150M	$1,250	0	
150M	1B	1,250	.0000014	$150M
1B	5B	2,500	.0000003	1B
5B	10B	3,750	.0000002	5B
10B		5,000		
Category D [5] $1,000				

[1] Total assets are to be measured on a pro forma basis—that is, the applicant's total assets if its application is approved.

[2] Category A applications include: bank holding company formations, acquisition of banks and acquisition of nonbanks, (going concerns); bank holding company stock redemptions, and changes in control; international investment applications.

[3] Category B applications include: initial foreign branches, Edge Act and other international applications, domestic bank mergers, and changes in control for state member banks.

[4] Category C applications include: Bank holding company nonbank acquistions (de novo) and export trading company notifications; state member bank branches, bank service corporations, investments in bank premises and issuance of capital notes by state member banks; additional foreign branch and investment notifications.

[5] Category D includes ATM branches. All ATM branches pay the same processing fee

(2) The Board shall assess annual fees for the supervision and inspection of Edge corporations (as defined in section 25(a) of the Federal Reserve Act, 12 U.S.C. 611 *et seq.*) according to the following schedule.

ASSESSMENT SCHEDULE FOR EDGE CORPORATIONS

Total assets plus standby letters of credit (dollars in millions)	Assess this amount	Plus	Of excess over (dollars in millions)
Banking Edges: [1]			
$0 to 10 million	$2,000	0.000200	$0
10 to 25	4,000	0.000130	10
25 to 100	6,000	0.000120	25
100 to 500	15,000	0.000100	100
Over 500	55,000	0.000078	500
Investment Edges: [1]			
$0 to 10 million	1,000	0.000100	0
10 to 100	2,000	0.000060	10
100 to 1,000	7,500	0.000055	100
1,000 to 5,000	57,000	0.000040	1,000
Over 5,000	237,000	0.000032	5,000

[1] Banking Edge corporations conduct banking activities in the United States related to foreign or international transactions, while investment Edges are essentially holding companies for foreign investments. The size categories for banking Edges refer to their estimated assets, based on data they submit on FR 2886b reports. The size categories for investment Edges refer to the estimated consolidated assets of these corporations and their majority-owned (or otherwise controlled) subsidiaries.

Board of Governors of the Federal Reserve System, November 12, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86–25926 Filed 11–18–86; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM79-76-251; (Texas—16 Addition II)]

18 CFR Part 271

High-Cost Gas Produced From Tight Formations; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Olmos Formation be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on December 29, 1986.

No public hearing is scheduled in this docket as yet. Written requests for a public hearing due on November 28, 1986.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Edward G. Gingold (202) 357–9114, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: November 13, 1986.

I. Background

On September 15, 1986, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that an additional area of the Olmos Formation located in the southern portion of the state of Texas be designated as a tight formation. The Commission previously adopted a recommendation that the Olmos Formation in certain areas of Webb and Dimmit Counties be designated a tight formation (Order No. 263 issued September 30, 1982, in Docket No. RM79–76–080 (Texas—16)) and the A.W.P. (Olmos) Field (Order No. 452 issued June 12, 1986, in Docket No. RM79–76–247 (Texas—16 Addition)). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the additional area of the Olmos Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The area for which the tight sand recommendation is sought consists of approximately 7,506 acres and is located to the east and southeast of Tilden, in McMullen County, Texas. This area contains four leases in the A.W.P. (Olmos) Field; the 3,480.6 acre Bracken Lease, the 320 acre Dan Foster Lease, the 2,431.46 acre R. P. Horton Lease, and the 1,274 acre R. P. Horton "C" Lease.

According to the recommendation, there are fifty-one producing wells within the designated area. Forty-four of the wells are oil wells and seven are gas wells. The average field density of development is equivalent to 147 acres per well. Field rules allow for one well per 80 acres, with an optional 40 acre unit, and a tolerance of 40 acres for the last well on a lease.

The Olmos Sandstone is the youngest (uppermost) of three formations comprising the Taylor Group of Cretaceous Age. In south Texas, rocks of the Taylor Group, including the Olmos, conformably overlie the Austin Chalk and are uncomformably overlain by rock of the Navarro Group, principally the Escondido formation. The Olmos can be correlated as a continuous unit over the entire area of application and is present at depths below mean sea level ranging from 9,100' to 9,600'. It is recognized in two sections, known as the Massive Olmos and the Second Olmos Stringer.

In the area of application, the Olmos reservoir is controlled by both structural and stratigraphic mechanisms. Three major faults have been recognized on well logs. Several other smaller faults have been detected but do not appear to be a controlling factor in reservoir fluid migration. Primarily, the reservoir is controlled by a stratigraphic unconformity where the Olmos is erosionally truncated and then overlain by an impermeable shale.

Geological analysis of Olmos core samples have determined that the average Olmos Sand in the area of application is a very fine grained, clayey, glauconitic, feldspathic quartz sand with accessory mica, rock fragments, heavy minerals and planktonic foraminifera. Detrital clay matrix makes up from 33 to 53 percent of the total rock volume and the clay has been admixed with the sand by borrowing organisms.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on the matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce, without stimulation, more than five (5) barrels of oil per day.

Texas further asserts that existing state law and established casing procedures assure protection of all fresh water zones.

Accordingly, under the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶ 30,180 (1980), the Director gives notice of the proposal submitted by Texas that the additional area of the Olmos Formation, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the

Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before December 29, 1986. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-251 (Texas—16 Addition II) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC, during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. The person shall specify the amount of time requested at the hearing, and should file the request with the Secretary of the Commission no later than November 28, 1986.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formation.

Accordingly, the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, will be amended as set forth below, in the event the Commission adopts Texas' recommendation.

Raymond A. Beirne,

Acting Director, Office of Pipeline and Producer Regulations.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(111)(iii) to read as follows:

§ 271.703 Tight formation.

* * * * *

(d) *Designated tight formations.*

* * * * *

(111) *The Olmos Formation in Texas.* RM79-76 (Texas—16).

* * * * *

(iii) *A.W.P. (Olmos) Field, McMullen County.*

(A) *Delineation of formation.* The designated portion of the Olmos Formation is located to the east and southeast of Tilden, in McMullen County, Texas, and consists of approximately 7,506 acres containing four leases; the 3,480.6 acre Bracken Ranch lease, the 320 acre Dan Foster lease, the 2,431.46 acre R.P. Horton lease and the 1,274 acre R.P. Horton "C" lease.

(B) *Depth.* The top of the Olmos Formation occurs at depths of from 9,100 feet to 9,600 feet below mean sea level.

[FR Doc. 86-26013 Filed 11-18-86; 8:45 am]
BILLING CODE 6717-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Medical Benefits; Transportation of Claimants and Beneficiaries

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: For several years the Veterans Administration (VA) has sought administratively to control expenditures for the transportation and travel expenses of veteran beneficiaries traveling to and from VA health care facilities. Underlying these efforts was a strong sense that funds available to provide health care to veterans are more appropriately used for direct patient care programs rather than for transportation costs. Nevertheless, beneficiary travel costs have continued to esxalate rapidly. To avoid haveing to continually divert substantial amounts of appropriated funds from direct patient care programs to the beneficiary travel program, VA is proposing to amend its medical regulations to authorize beneficiary travel payments to eligible veterans only when specialized modes of transportation, such as ambulance or wheelchair van, are medically indicated.

DATES: Written comments must be received on or before December 22, 1986. These amendments will apply to claims for transportation occurring on or after the effective date of final regulations.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding these proposed regulations to: Administrator of Veterans Affairs (271A), 810 Vermont Avenue NW, available for public inspection only in the Veterans Services Unit, Room 132, of the above address, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until January 7, 1987.

FOR FURTHER INFORMATION CONTACT: Karen Walters, Chief, Policies and Procedures Division, Medical Administration Service (202) 233-2337.

SUPPLEMENTARY INFORMATION: The annual HUD-Independent Agencies Appropriations Act (the Act appropriating funds for the VA) includes an appropriation for all medical care for veterans. From this appropriation, VA funds a beneficiary travel program authorized by section 111 of Title 38, United States Code. Pursuant to that authority, VA pays, or reimburses eligible veterans costs of their transportation and travel to and from a VA health care facility. The costs of the beneficiary travel program have been increasing steadily in recent years despite administrative actions to reduce costs and improve management of the program.

An amendment is being made to 38 CFR 17.000 to provide that VA beneficiary travel payments may be authorized only for the cost of medically indicated specialized modes of transportation. Medically indicated special modes of transportation include: Ambulance, ambulette, air ambulance, wheelchair van, and other modes of transportation which are specially designed to transport certain types of disabled individuals. The term special modes does not include: Public transportation such as a bus, subway, train, airplane, or privately-owned conveyance. It would include a hired car, or a taxi, but only in the case of an interfacility transfer when such mode of transportation is less expensive than other authorized specialized modes of transportation. The regulation is also being amended to prohibit authorization of any travel expenses when VA care is sought for certain purposes for which travel was previously authorized, e.g. admission for domiciliary care, or travel for family members of veterans receiving mental health services from the VA. Finally, the regulation is being amended to clarify the scope of permissible "interfacility transfers," as authorized under existing regulations. As amended, that provision would authorize VA to provide transportation costs when necessary to transfer any veteran from one health care institution (either a VA or contract care facility) to another in order to continue ongoing VA-sponsored care.

This proposed amendment to VA regulations is considered nonmajor under the criteria of Executive Order

12291, Federal Regulation. It will not have an annual effect on the economy of $100 million or more; result in major increases in costs for consumers, individual industries, Federal, State or local government agencies, or geographic regions; have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator certifies that this proposed amendment, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The change concerns the eligibility of individual veterans and VA beneficiaries to VA payment for, or reimbursement of, their expenses for travel to or from VA medical facilities in certain circumstances. This change imposes no regulatory, administrative, or paperwork burdens on any type of small entity.

(The Catalog of Federal Domestic Assistance numbers are 64.009, 64.011, and 64.013)

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants programs—health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: November 4, 1986.

Thomas K. Turnage,

Administrator.

PART 17—[AMENDED]

38 CFR Part 17, Medical, is proposed to be amended as follows:

1. § 17.100 [Amended]

1. In § 17.100(d) remove the words "or member" wherever they appear.

2. In § 17.100(j) remove the words "pullman accommodations," wherever they appear.

3. In § 17.100 paragraphs (a)(3) and (g)(3) are removed and the introductory text and paragraphs (e), (f)(1), and (k) are revised to read as follows:

§ 17.100 Transportation of claimants and beneficiaries.

Transportation at Government expense may be authorized for an individual who is eligible under this section only when a VA physician has determined that a specialized mode of transportation is medically required. Special modes of transportation which may be determined to be medically required include: ambulance, ambulette, air ambulance, wheelchair van, and other modes of transportation which are specially designed to transport certain types of medically disabled individuals. The term special mode does not include: public transportation such as bus, subway, train, airplane, or any automobile or similar conveyance. A hired car or taxi may be authorized as a special mode only for interfacility transfers, as authorized in paragraph (e) of this section, if use of such mode of transportation is less expensive than other authorized specialized modes of transportation. Transportation will not be authorized for the cost of travel in excess of the actual expense incurred by any person as certified by the person in writing. Transportation will not be authorized unless the person claiming reimbursement is a service-connected veteran; a nonservice-connected veteran in receipt of VA pension benefits; or a person whose annual income, as determined under the provisions of 38 U.S.C. 503, is less than or equal to the maximum annual base pension rates provided in 38 U.S.C. 521. Travel expenses of all other claimants will not be authorized unless the claimant can present clear and convincing evidence, in a form prescribed by the Administrator, to show that he or she is unable to defray the cost of transportation; or except when medically-indicated ambulance transportation is claimed and an administrative determination is made regarding the claimant's ability to bear the cost of such transportation. Travel will be authorized for the following purposes: (38 U.S.C. 111, as amended by Pub. L. 94–581, sec. 101, and Pub. L. 96–151, sec. 201)

* * * * *

(e) *Interfacility transfers.* Subject to the limitations of this section, VA may transport a patient who is eligible for benefits under this section, or may reimburse such patient for the expenses of authorized transportation, when such travel is necessary to transfer the patient from one health care institution to another, provided both institutions furnish the individual with treatment at VA expense, and the transfer is necessary for continuation of such treatment. (38 U.S.C. 111)

(f) *Discharge.* (1) Subject to the limitations of this section, upon regular discharge from hospitalization for treatment, observation and examination, or nursing home care, return transportation to the point from which the beneficiary had proceeded; or to another point if no additional expense be thereby caused the Government.

* * * * *

(k) *Furnishing transportation and other expenses incident thereto.* In furnishing transportation and other expenses incident thereto, as defined, the VA may (1) issue requests for transportation, meals, and lodging; or (2) reimburse the claimant, beneficiary or representative, for payment made for such purpose, upon due certification of vouchers submitted therefor. The provisions of §§ 17.100, 17.101 or 17.102 will be complied with in all instances when transportation costs are claimed. (38 U.S.C. 111)

* * * * *

[FR Doc. 86–26086 Filed 11–18–86; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 36

Loan Guaranty; Increase in Value of Security Which Can Be Released Without Prior Approval

AGENCY: Veterans Administration.

ACTION: Proposed regulatory amendment.

SUMMARY: The Veterans Administration (VA) is proposing to amend its regulations by increasing from $500 to $2,500 the maximum value of property securing a VA-guaranteed home loan that can be released by the holder without prior approval of the Administrator. A new maximum value of $2,500 will eliminate unnecessary paperwork for both the lender and the VA by reducing the number of partial security release cases referred by lenders to the VA for prior approval. The new maximum value will allow for greater reduction to the loan balance, and consequently to the Administrator's liability, because the regulations still provide for the entire consideration received for the released security to be applied to the loan balance.

DATES: Comments must be received on or before December 22, 1986. The VA proposes to make this regulatory amendment effective 30 days after publication of the final regulations.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8:00 a.m. and

4:30 p.m., Monday through Friday (except holidays) until *January 7, 1987.*

FOR FURTHER INFORMATION CONTACT: Mr. Raymond L. Brodie, Assistant Director for Loan Management (261), Loan Guaranty Service, (202) 233-3668.

SUPPLEMENTARY INFORMATION: 38 CFR 36.4324(a) was last amended may 20, 1970, to increase from $300 to $500 the value of property securing a VA-guaranteed loan that can be released by the holder without prior VA approval. Due to an increase in property values since 1970, a $500 value is no longer realistic. An example of an instance in which a partial release of property is required is a highway widening project. Currently, if the value of property to be released for such a project is more than $500, the holder must value VA approval before releasing the property to the highway department. Requiring VA approval before releasing property with such a low value when compared to the total worth of the security places an unnecessary paperwork burden on both the lender and the VA. The purpose of the proposed amendment is to raise this amount to $2,500. For release of property value at more than $2,500, VA prior approval is needed to verify the adequacy of the consideration received and to ensure that the value of the remaining property is sufficient to secure the outstanding loan balance.

The Administrator hereby certifies that this proposed regulatory amendment will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. By reducing the number of cases requiring referral by the holder to the VA, the proposed amendment establishes a procedure which is less burdensome on the holder than that described in the current regulations. Pursuant to 5 U.S.C. 605(b), this proposed regulatory amendment is, therefore, exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Administator has also determined that the proposed amendment is not a "major rule" within the meaning of Executive Order 12291, Federal Regulation. It will not have an annual effect on the economy of $100 million or more; it will not cause a major increase in costs or prices for consumers or individual industries; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Catalog of Federal Domestic Assistance Program Numbers are 64.114 and 64.119.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing loan programs—housing and community development, Manufactured homes, Veterans.

This regulatory amendment is proposed under the authority granted the Administrator by sections 210(c) and 1820 of Title 38, United States Code.

Approved: October 29, 1986.

Thomas K. Turnage,

Administrator.

PART 36—[AMENDED]

38 CFR Part 36, Loan Guaranty, is proposed to be amended as follows:

§ 36.4324 [Amended]

In § 36.4324 paragraph (a) is amended by removing the words "$500' wherever they appear and adding, in their place, the words "$2,500".

[FR Doc. 86-26087 Filed 11-18-86; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-3113-4]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: On May 7, 1984, and January 23, 1986, the State of Indiana submitted to USEPA a revision to the Indiana lead (Pb) State Implementation Plan (SIP) in order to satisfy the requirements of 40 CFR 51.18 (a) through (i) and 51.18(k) for a general New Source Review (NSR) program, as well as the Federal requirements for a Pb NSR program. USEPA has reviewed these submittals and is proposing to approve them for the pollutant Pb as meeting the requirements of 40 CFR Part 51.18 (a) through (i) and 51.18(k). The purpose of this notice is to present a discussion of the material submitted by the State to support the revision and to provide an opportunity for public comment on the revision and on USEPA's proposed action.

DATE: Comments on this revision and on the proposed USEPA action must be received by January 20, 1987.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Anne E. Tenner, at (312) 886-6036, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604

Air Management Division, Indiana Department of Environmental Management, P.O. Box 6015, Indianapolis, Indiana 46206-6015

Please submit an original and three copies, if possible. Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 886-6036.

SUPPLEMENTARY INFORMATION: On May 7, 1984, the State of Indiana submitted to USEPA a revision to the Indiana Pb SIP in order to satisfy the requirements of 40 CFR 51.18 (a) through (i) and 51.18(k) for a general NRS program, as well as the Federal requirements for a Pb NSR program. On January 23, 1986, the State submitted to USEPA an amended version of the Pb NSR rules which addressed certain deficiencies in the previous Pb NSR rules.

In today's rulemaking action, USEPA is proposing to approve this revision to the Indiana SIP as requested by the State of Indiana. The Pb NSR rules are discussed in detail below. However, USEPA wishes to clarify that this proposed rulemaking action only pertains to the approvability of this SIP revision with respect to the Pb NSR requirements. USEPA will rulemake on NSR rules at they apply to other pollutants at a latter date.

The amended rule is consistent with USEPA policy (memorandum dated April 8, 1980, from Richard G. Rhoads, Director, Control Programs Development Division to Directors, Air and Hazardous Materials Divisions) which states that the NSR requirements of the Pb SIP may be satisfied by requiring review of all Pb sources which have the potential to emit Pb in excess of 5 tons per year.

This amended rule is also consistent with USEPA's interim policy on Pb plans which requires review of any modification to a source with actual emissions in excess of 5 tons per year of Pb, if the modification would result in a

net increase of 0.6 or more tons of Pb per year of potential emissions. (See pp. 4–23 in "Updated Information on Approval and Promulgation of Pb Implementation Plan", dated July 1983). As a result, USEPA is proposing for approval Indiana Rule IAC 2–1.1 as meeting the new source review requirements in 40 CFR 51.18 (a) through (i) of new sources of Pb.

Additionally, USEPA is proposing for approval Indiana Rule IAC 2–1.1 as meeting the requirements of 40 CFR 51.18(k) for Pb. Paragraph (k) requires a provision in a permit or equivalent program which satisfies the requirements of the Clean Air Act (Act) Section 110(a)(2)(D)(i) for major new sources and major modifications of existing sources in attainment or unclassified areas. Section 110(a)(2)(D)(i) of the Act requires SIPS to have a program that can enforce emission limits and regulations with respect to the construction, modification and operation of "major emitting facilities" to achieve and maintain national standards.

A "major emitting facility" according to Section 302(j) of the Act, is any source with a potential of emitting 100 tons per year. The State rule in section (1)(a)(1) and Section (1)(b)(1)(A) requires all sources with potential emissions of 25 tons per year or more to apply for and receive a construction or operating permit. The 25 tons per year is more stringent than the 100 tons per year Federal cut-off.

The construction permit program in Indiana Rule 325 IAC 2–1.1 Section 3(b)(1) requires a demonstration that the National Ambient Air Quality Standards (NAAQS) and the Prevention of Significant Deterioration (PSD) increments will be maintained before a permit can be issued. The operating permit program implements this by requiring adherence to the construction permit conditions and adherence to the State's emission rules. Furthermore, Section 5(a) of the State rule allows the State of Indiana to place emission limits on construction and operating permits for the protection of the NAAQS and the Prevention of Significant Deterioration (PSD) increments. These provisions in section 3(b)(1) and Section 5(a) provide the State with enforcement provisions that are needed to protect the NAAQS and the PSD increments as required by the Act section 110(a)(2)(D)(i).

In summary, USEPA is proposing for approval Indiana Rule 325 IAC 2–1.1 as meeting all the requirements of 40 CFR 51.18(a)–(i) and 51.18(k) for Pb. In addition, USEPA has determined that the submitted NSR rules will meet the Pb NSR requirements and, therefore, will fulfill one element in the overall Indiana Pb Plan.

Under 5 U.S.C section 604(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

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

Authority: 42 U.S.C. 7401–7642.

Dated: June 26, 1986.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 86–26075 Filed 11–18–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[A–1–FRL–3114–3]

Approval and Promulgation of Implementation Plans Connecticut; Group III CTG Regulations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve proposed State Implementation Plan (SIP) revisions submitted by the State of Connecticut. These revisions will require reasonably available control technology (RACT) to reduce volatile organic compound (VOC) emissions from synthetic organic chemical and polymer manufacturing equipment and from polystyrene manufacturing equipment. The revisions also include amendments clarifying VOC compliance methods for surface coating operations. The intended effect of this action is to reduce statewide ozone levels as required under Section 110 and Part D of the Clean Air Act.

DATES: Comments must be received on or before December 19, 1986. Public comments on this document are requested and will be considered before taking final action on these SIP revisions.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2311, JFK Federal Building, Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2311, JFK Federal Building, Boston, MA 02203; and the Air Compliance Unit, Department of Environmental Protection, State Office Building, 165 Capitol Ave., Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: David B. Conroy (617) 565–3252; FTS 835–3252 or Lynne A. Naroian (617) 565–3246; FTS 835–3246.

SUPPLEMENTARY INFORMATION: On March 26, 1986, the Department of Environmental Protection (DEP) submitted proposed revisions to the Connecticut State Implementation Plan. These proposed revisions include the following:

1. Section 22a–174–20, Subsection (x), "Control of VOC Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment"—Except as discussed below, EPA's review of this regulation found it consistent with the Control Techniques Guideline (CTG) document *Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment* (EPA–450/383–006). The proposed regulation does not define the term "In VOC Service." This term should be defined prior to final adoption of the regulation by the State of Connecticut.

Proposed Action

EPA is proposing to approve Section 22a–174–20, Subsection (x). EPA is proposing approval with the understanding that Connecticut will amend this regulation, as discussed above, prior to its adoption and submittal for incorporation into the SIP.

2. Section 22a–174–20, Subsection (y), "Manufacture of Polystyrene Resins"—This regulation requires all continuous polystyrene resin manufacturing facilities to comply with an emission limit of 0.12 kg of VOC/1000 kg of product in total from the styrene condenser vent and the styrene recovery unit condenser vent. EPA has reviewed this regulation and found that it is consistent with the CTG document *Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins* (EPA–450/383–008). This regulation does not address polypropylene and high-density polyethylene manufacturers. This is acceptable if there are no sources in these categories located in the State of Connecticut.

Proposed Action

EPA is proposing to approve Section 22a–174–20, Subsection (y). The formal submittal of this SIP revision must include a letter certifying that there are no polypropylene or high-density polyethylene manufacturing sources in the State of Connecticut.

3. Amendments to Section 22a–174–20, Subsection (bb), "VOC Compliance

Methods"—This SIP regulation is being amended, at Subsection (bb), to clarify the requirement that VOC surface-coating sources use a capture system with a 90% collection efficiency when utilizing add-on control equipment to achieve compliance. EPA's review of the amendments to subsection (bb) has indicated that it is approvable as submitted. In Connecticut's submittal, Subsection (bb) was inadvertently listed as applicable to the following subsections: Subsection (t), "Manufacture of Synthesized Pharmaceutical Products," Subsection (u), "Manufacture of Pneumatic Rubber Tires," and Subsection (v), "Graphic Arts Rotogravers and Flexography." These regulations already contain capture and control efficiency requirements within them. The State may wish to clarify the applicability of Subsection (bb) by excluding Subsections (t), (u), and (v).

Proposed Action

EPA is proposing to approve Section 22a-174-20, Subsection (bb). EPA is proposing approval with the understanding that Connecticut will clarify the applicability portion of this subsection, as discussed above, prior to its adoption and formal submittal as a SIP revision.

A more detailed description of EPA's evaluation on each of the above regulatory changes is presented in the Technical Support Document that has been prepared for these revisions. That document is available for public inspection at the locations provided in the ADDRESSES section of this notice.

EPA is soliciting public comments on this notice and on issues relevant to today's proposed action. Comments will be considered before taking final action. Interested parties may participate in the federal Rulemaking process by submitting written comments to the address provided above.

Approval of these revisions is being proposed under a procedure called "parallel processing." 47 FR 27073. Parallel processing is a procedure by which the Federal rulemaking process and the state's procedures for amending its SIP are done concurrently. If the proposed revisions are substantially changed, in areas other than those identified in this notice, EPA will evaluate those changes and may publish a revised notice of proposed rulemaking. If no substantial changes are made other than those areas cited in this notice, EPA will publish a final rulemaking notice on the revisions. The final rulemaking action by EPA will occur only after the SIP revisions have been adopted by the State of Connecticut and submitted to EPA for incorporation into the SIP. It is estimated that "parallel processing" reduces the customary time required for final approval of SIP revisions by 3 to 4 months.

Under 5 U.S.C. section 605(b), I certify that these SIP revisions will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

The Administrator's decision to approve or disapprove the plan revisions will be based on whether they meet the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Dated: May 22, 1986.

Michael R. Deland,

Regional Administrator, Region I.

[FR Doc. 86–26074 Filed 11–18–86; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 180

[PP 6E3384/P405; FRL–3110–8]

Pesticide Tolerance for Fluazifop-Butyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the herbicide fluazifop-butyl in or on the raw agricultural commodity tabasco peppers. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments, identified by the document control number [PP 6E3384/P405], must be received on or before December 19, 1986.

ADDRESS: By mail, submit written comments to:

Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

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

FOR FURTHER INFORMATION CONTACT BY MAIL:

Donald R. Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, submitted pesticide petition 6E3384 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Station of Louisiana.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide fluazifop-butyl (+)-2-[4-[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy propanoic acid (fluazifop), both free and conjuqated and of (±)-butyl-2[4-[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy propanoate (fluazifop-butyl), all expressed as fluazifop, in or on the raw agricultural commodity tabasco peppers at 1.0 part per million (ppm). The petitioner proposed that use on tabasco peppers be limited to Louisiana based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's

Registration Division at the address provided above.

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

1. A 2-year chronic feeding/oncogenicity study in rats which was negative for oncogenic potential at 3.0 milligrams (mg) per kilogram (kg) of body weight (bw) per day (equivalent to 60 ppm, highest dose tested) and a no-observed-effect level (NOEL) of 1 mg/kg/day.
2. A 90-day rat feeding study with a NOEL of 0.5 mg/kg/day (equivalent to 10 ppm).
3. A 90-day dog feeding study with a NOEL of 25 mg/kg/day (equivalent to 1,000 ppm).
4. A rat oral lethal dose LD50 of 3,300 mg/kg.
5. A rat teratology study with a teratogenic and maternal toxicity NOEL of 10 mg/kg/day (equivalent to 100 ppm) and a NOEL for fetotoxicity of 1 mg/kg/day (the teratogenic and maternal toxic effects level is 200 mg/kg/day, highest dose tested).
6. A rabbit teratology study with no teratogenic effect at 90 mg/kg/day (highest dose tested) and a NOEL for fetotoxicity of 10 mg/kg/day (equivalent to 330 ppm).
7. A 2-generation rat reproduction study with a NOEL of 1 mg/kg/day.
8. An 18-month mouse chronic feeding/oncogenicity study with no observed oncogenic potential at 3.0 mg/kg/day (highest dose tested) and a NOEL for systemic toxicity of 1.0 mg/kg/day (equivalent to 7 ppm).
9. An Ames test (negative), a rat cytogenetic study (negative), and an in-vitro transformation assay (negative).
10. An acute delayed neurotoxicity study in hens (negative).

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 1.0 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.01 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.6 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0457 mg/day; the current action will increase the TMRC by 0.00045 mg/day (0.98 percent). Published tolerances utilize 7.6 percent of the ADI; the current action will utilize an additional 0.07 percent.

The nature of the residues is adequately understood and an adequate analytical method, high pressure liquid chromatography using an ultra-violet detector, is available in Pesticide Analytical Manual, Volume II (PAM–II), for enforcement purposes.

No secondary residues in meat, milk, poultry, or eggs are expected since tabasco peppers are not considered a livestock feed commodity. Based on the data and information considered, the Agency concludes that the proposed tolerance will protect the public health. Therefore, the tolerance is proposed as set forth below.

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

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 6E3384/P405]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: November 5, 1986.

E.F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

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

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

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

2. Section 180.411 is amended by designating the current paragraph and list of tolerances as paragraph (a) and adding paragraph (b) to read as follows:

§ 180.411 Fluazifop-butyl; tolerances for residues.

(a) * * *

(b) Tolerances with regional registration are established for residues of (±)-2-[4-[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy propanoic acid (fluazifop), both free and conjugated and of (±)-butyl-2-[4-[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy propanoate (fluazifop-butyl), all expressed as fluazifop, in or on the raw agricultural commodity:

Commodities	Parts per million
Peppers, tabasco	1.0

[FR Doc. 86–25717 Filed 11–18–86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E3396/P404; FRL–3110–7]

Pesticide Tolerance for Oxyfluorfen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY This document proposes that a tolerance be established for the combined residues of the herbicide oxyfluorfen and its metabolite in or on the raw agricultural commodity guava. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 6E3396/P404], should be received on or before December 19, 1986.

ADDRESS: By mail, submit written comments to:

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

In person, bring comments to: Rm 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

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

FOR FURTHER INFORMATION CONTACT:

By mail: Donald R. Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716B, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, submitted pesticide petition 6E3396 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Station of Hawaii.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolite containing the diphenyl ether linkage in or on the raw agricultural commodity guava at 0.05 part per million (ppm). The petitioner proposed that use on guava be limited to Hawaii based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

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

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

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

3. A rat oral lethal dose LD_{50} greater than 5.0 grams (g)/kg.

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

5. A rabbit teratology study with no observed teratogenic effect at 30 mg/kg.

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

7. A 3-generation rat reproduction study with a NOEL of 10 ppm (0.5 mg/kg of bw).

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

The acceptable daily intake (ADI), based on the chronic mouse feeding study NOEL of 0.3 mg/kg/day and using a 100-fold safety factor, is calculated to be 0.003 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.18 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0394 mg/day; the current action will increase the TMRC by 0.0000252 mg/day (0.06 percent). Published tolerances utilize 21.88 percent of the ADI; the current action will utilize an additional 0.01 percent.

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

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

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography, is available in Pesticide Analytical Manual, Volume II (PAM-II), for enforcement purposes. There are presently no actions pending against the continued registration of oxyfluorfen.

No secondary residues in meat, milk, poultry, or eggs are expected since guavas are not considered a livestock feed commodity. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

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

Interested persons are invited to submit written comments on the proposed regulation. Comments should bear a notation indicating the document control number, [PP 6E3396/P404]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

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

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

List of Subjects in 40 CFR Part 180

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

Dated: November 5, 1986.

E.F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

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

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

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

2. Section 180.381 is amended by designating the current paragraph and list of tolerances as paragraph (a) and adding paragraph (b) to read as follows:

§ 180.381 Oxyfluorfen; tolerances for residues.

* * * * *

(b) Tolerances with regional registration are established for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolites containing the diphenyl ether linkage in or on the raw agricultural commodities:

Commodities	Parts per million
Guava	0.05

[FR Doc. 86-25718 Filed 11-18-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. MMPAH-1986-1]

Regulations Governing the Taking and Importing of Marine Mammals; Supplementary Information

AGENCY: Office of the Administrative Law Judge, U.S. Department of Commerce, for the National Marine Fisheries Service (NMFS), NOAA.

ACTION: Supplement relating to issues in formal rulemaking proceeding.

SUMMARY: On August 15, and October 28, 1986, notices announced the convening of a formal rulemaking in the matter of proposed regulations to govern the taking of marine mammals (Dall's porpoise) incidental to commercial salmon fishing operations, 51 FR 29674, (Aug. 20, 1986). This Notice confirms the issues for consideration, lists the witnesses whose testimony has been submitted and established the order of presentation.

DATES: The dates remain as published in the Order of September 17, 1986, 51 FR 33907 (Sept. 24, 1986).

ADDRESS: Office of the Administrative Law Judge, Suite 6716, U.S. Department of Commerce, 14th and Constitution Ave. NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Rosalie Smith, Office of the Administative Law Judge, Suite 6716, U.S. Department of Commerce, 14th & Constitution Ave. NW., Washington, DC 20230, Telephone: 202-377-3135.

SUPPLEMENTARY INFORMATION:

In the Matter of: Proposed Regulations to Govern the Taking of Marine Mammals (Dall's Porpoise) Incidental to Commercial Salmon Fishing Operations; Docket No. MMPAH-1986-1.

ORDER

The pre-hearing conference was held as scheduled on November 3, 1986, at the Department of Commerce, Washington, DC.

The following are the witnesses whose testimony or statements have been filed in accordance with the notices and which may be admitted at the hearing scheduled to commence at 10 a.m. on December 1, 1986, in Courtroom E912 of the King County Courthouse, 3rd and James Streets, Seattle, Washington.

Franklin G. Alverson	Kazuo Shima
Gordon C. Broadhead	Satoshi Shimizu
Shintaro Enomoto	Kenji Takagi
Frank J. Hester	Linda Jones
Mamoru Kato	G. Christopher Bouchet
Masayuki Komatsu	Jeff Breiwick
Hiroshi Ogiwara	Paul Sponz
Seiji Oshumi	Hans Jartmann

Agenda

At the hearing, following consideration of any preliminary matters and motions, the representative of the parties will have the opportunity to make opening statements. Introduction and cross-examination of the proponents' witnesses by the parties opposing the application, in turn. The proponents will then be afforded an opportunity for recross-examination. The participants are reminded that anyone presenting a witness is responsible to provide a translator to assure that the record is made in English. Following the proponent's presentations, the parties in opposition will be offered opportunity to make their presentations.

Testimony will be received on marine mammal populations, including mortality of Dall's porpoise in the driftnet squid fishery, as well as in other fisheries and natural activities. Testimony respecting as asserted incidental or other take for fur seals and/or sea lions will also be received. However, testimony may be limited if a particular stock is shown not to be the subject of taking and/or a permit within the ambit of this proceeding. As indicated at the pre-hearing conference, these are considered as within the paramter of the issues as previously stated.

I will defer to the requests of the parties to allow testimony on the incidental take of marine birds in the drift gillnet fishery. This is not a National Environmental Policy Act, Environmental Impact Statement process or proceeding. However, I recognize that the latter is being accomplished concurrently and, is parallel. I still have reservations respecting the sea-birds question, but will allow the testimony as requested. I will reserve for later determination the extent of consideration to be given to the issues raised in the Environmental Impact Statement process and invite counsel to comment, particularly in their post-hearing submissions, further on the appropriateness and/or necessity of such consideration, particularly to matters not related directly to marine mammals.

The schedule of the proceeding will be maintained.

Dated: November 13, 1986.

Hugh J. Dolan,

Administrative Law Judge.

[FR Doc. 86-26070 Filed 11-18-86; 8:45 am]

BILLING CODE 3510-08-M

Notices

Federal Register
Vol. 51, No. 223
Wednesday, November 19, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

November 14, 1986

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) title of the information collection; (3) form number(s), if applicable; (4) how often the information is requested; (5) who will be required or asked to report; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to provide the information; (8) an indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Attn: Desk Officer for USDA

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible

Extension

Agricultural Marketing Service

7 CFR Part 55, Regulations for Voluntary Inspection of Egg Products and Grading
On occasion; Weekly, Monthly, Daily
Businesses or other for-profit; Small businesses or organizations;
5,472 responses; 1,286 hours; not applicable under 3504(h)
Merlin L. Nichols, Jr. (202) 447–3506

Forest Service

Youth Conservation Corps (YCC) Application and Medical History
FS–1800–3; FS–1800–18
On occasion
Individuals or households; 27,500 responses; 2,500 hours; not applicable under 3504(h)
L. Wayne Bell (202) 535–0927

Rural Electrification Administration

Financial Requirement & Expenditure Statement—Electric Program REA–595
On occasion
Small businesses or organizations; 2,700 responses; 29,700 hours; not applicable under 3504(h)
Bert Huntington (202) 382–1966

Revision

Agricultural Marketing Service

Dried Prunes Produced in California—Marketing Order 993
Recordkeeping; On occasion; Monthly; Annually
Businesses of other for-profit; 39,301 responses; 34,837 hours; not applicable under 3504(h)
Ronald L. Cioffi (202) 447–5697

Farmers Home Administration

7 CFR 1924–A, Planning and Performing Construction and Other Development
FmHA 1924–1, –2, –3, –5, –6, –7, –9, –10, –11, –12, –13, –18, 424–19, and CC–257
Recordkeeping; On occasion
Individuals or households; Farms; Businesses or other for-profit;
Non-profit institutions; Small businesses or organizations; 759,078 responses; 262–629 hours; not applicable under 3504(h)
Jack Holston (202) 382–9736
7 CFR 1944–A, Section 502 Rural Housing Loan Policies, Procedures and Authorizations
FmHA 431–3, 440–34, 1944–4, 1944–6, 1944–A6, 1944–12, 1944–36, and 1944–5
On occasion
Individuals or households; Businesses or other for-profit; Small businesses or organizations; 718,600 responses; 357,640 hours; not applicable under 3504(h)
Jack Holston (202) 382–9736

Food and Nutrition Service

Report of the Child Care Food Program
FNS–44
Monthly; Quarterly
State or local governments; 1,584 responses; 4,752 hours; not applicable under 3504(h)
Alan Rich (703) 756–3100

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 86–26098 Filed 11–18–86; 8:45 am]

BILLING CODE 3410–01–M

Rural Electrification Administration

Associated Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of No Significant Impact. Relates to the construction of a 345 kV transmission line between Benton County, Arkansas, and Polk County, Missouri.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Enviornmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508), and REA Environmental Policy and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact (FONSI) with respect to construction of a 345 kV transmission line on steel lattice towers in northwestern Arkansas and wood H-frame support structures in southwestern Missouri. Associated Electric Cooperative, Inc. (AECI), of Springfield, Missouri, has requested approval from the REA for a $15.6 million loan guarantee which would permit AECI to own a 78 km (49 mi) share in the proposed project. The other participants in the proposed project are Springfield City Utilities (CU), of Springfield, Missouri, with a 72 km (45 mi) segment; Southwestern Electric Power Company, of Shreveport, Louisiana, with a 29 km (18 mi) segment; and Empire District Electric Company

(EDE), of Republic, Missouri, with a 38 km (23 mi) segment. KAMO Electric Cooperative, Inc. (KAMO), of Vinita, Oklahoma, will also use this line in the operation of its system and has been designated by AECI as the construction agent for AECI's share of the project. The Grand River Dam Authority (GRDA), of Vinita, Oklahoma, also plans to use this line in the operation of its system.

FOR FURTHER INFORMATION CONTACT: Frank W. Bennett, Director, Southeast Area-Electric, Room 0256, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382–8434.

SUPPLEMENTARY INFORMATION: REA, in conjunction with a request for approval from AECI for a $15.6 million loan guarantee to enable AECI to construct its share of the project, required that the project participants develop environmental support information reflecting the potential impacts of the project. Included as part of its environmental review process, REA held an interagency and two public scoping meetings in Missouri. The environmental support information supplied by the project participants, input from the meetings held, and input from the public and certain Federal and State agencies have been used by REA to develop its Environmental Assessment (EA). REA has concluded that the EA represents an accurate assessment of the environmental impacts of the proposed project and that the impacts are acceptable. The joint project will allow each of the participants to continue to meet their responsibilities to serve their load in a reliable and economical manner.

The length of the proposed project is approximately 216 km (135 miles). It originates at the Flint Creek Generating Station in Arkansas and traverses to the Morgan Substation in Missouri. The proposed transmission line is to be located in Benton County, Arkansas, and in McDonald, Newton, Barry, Lawrence, Greene, and Polk Counties, Missouri. The proposed project includes the construction by CU of the 345/161 kV Brookline Substation in Greene County, and an addition of a 345/161 kV transformer at both EDE's Monett Substation in Lawrence County and AECI's Morgan Substation in Polk County.

The single circuit 345 kV line will require a 46 m (150 ft) right-of-way (ROW). The two substations to be expanded, Monett and Morgan, will require 2.4 ha (6 ac) and 3.2 ha (8 ac), respectively. The new Brookline Substation will require 4 ha (10 ac).

REA has concluded that the proposed project will have no significant impact on wetlands, prime forestland or rangeland, threatened or endangered species or critical habitat, property listed or eligible for listing in the National Register of Historic Places, water quality and health of humans or animals. Floodplains of numerous streams and areas defined as prime farmland and Missouri important farmland are located in the preferred corridor. The only land removed from production will be immediately adjacent to the line support structures. The approximate amount of prime farmland and Missouri important farmland subject to impacts from the project is 0.11 ha (0.27 ac). About 12 structures are to be located within the 100-year floodplain of the streams located within the preferred corridor. There is no practicable alternative action that would avoid or reduce the small amount of prime and important farmland that would be impacted or that avoids the placement of 12 structures in the 100-year floodplain. Certain impacts resulting from the proposed project are unavoidable such as the cutting of trees and vegetation for the right-of-way clearing and the esthetic impact on the visual quality of the area.

Alternatives examined for the proposed joint project included no action, alternative energy sources and upgrading existing facilities. Alternative line routes, structure types and substation sites were also evaluated. REA determined that there is a demonstrated need for the project and constructing it within the preferred corridor is an environmentally acceptable project to meet the needs of the four project participants. The actual line route would be established within a corridor varying from approximately 1.6 km (1 mi) to 3.2 km (2 mi) to minimize the impacts on landowners, where practicable.

Based upon the environmental support information provided, and information from the REA conducted scoping meetings and public input, REA prepared an Environmental Assessment (EA) concerning the proposed project and its impacts. As a result of our independent evaluation, REA concluded that approval of financing assistance enabling AECI to own a 78 km (49 mi) share of the proposed project would not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, REA has reached a FONSI with respect to the proposed project.

Copies of REA's EA and FONSI can be obtained from the offices of REA in the South Agriculture Building, Room 0256, 14th and Independence Avenue SW., Washington, DC 20250; AECI, 2814 South Golden, Springfield, Missouri 65807 or KAMO, 900 South Wilson, Vinita, Oklahoma 74301. Copies of these documents can be reviewed at the offices of Springfield City Utilities, 301 East Central, Springfield, Missouri 65801; Empire District Electric Company, 202 South Main, Republic, Missouri 65738; and Southwestern Electric Power Company, 300 North College, Fayetteville, Arkansas 72701, during regular business hours. Copies of the documents are being sent to various Federal and State agencies. REA will take no final action with respect to AECI's request for financing assistance for at least forty five (45) days after publication of this notice in the **Federal Register** and in newspapers of general circulation in the counties where the project would be located.

Any comments should be sent to REA at the address given previously. All comments received during this period will be considered. This program is listed in the Catalog of Federal Domestic Assistance under No. 10.8509—Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the final rule related Notice to 7 CFR Part 3015, Subpart V, this program is excluded from the scope of Executive Order 312372 which requires intergovernmental consultation with state and local officials.

Dated: November 12, 1986.

Jack Van Mark,

Acting Administrator.

[FR Doc. 86–26065 Filed 11–18–86; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (14 U.S.C. Chapter 35).

Agency: International Trade Administration

Title: Emergency Application for Rating or Directive Assistance

Form Number: Agency—ITA–993; OMB—0625–0032

Type of Request: Extension of the expiration date of a currently approved collection

Burden: 0 respondents at this time; 1 reporting hours

Needs and Uses: Standby emergency assistance has been a part of the Government's emergency preparedness planning since the mid-1950's. In the event of a national emergency, this information would be used to assure that production materials for essential items may be obtained by contractors, and the distribution of these items may be accomplished. Contractors would use this form to request special priority rating authority or directive assistance during a national emergency.

Affected Public: Businesses or other for-profit institutions; Federal agencies or employees; small businesses or organizations

Frequency: On occasion

Respondent's obligation: Mandatory

OMB Desk Officer: Sheri Fox, 395–3785

Agency: International Trade Administration

Title: Diamond Dies, Natural and Synthetic Production, Imports and Exports

Form Number: Agency—ITA–9013; OMB—0625–0033

Type of Request: Extension of the expiration date of a currently approved collection

Burden: 22 respondents; 11 reporting hours

Needs and Uses: This information is required in support of the President's industrial mobilization responsibilities under Title III of the Defense Production Act of 1950, as amended. The survey provides data on production, imports and exports of diamond dies, natural and synthetic. The information collected is used by the Federal Emergency Management Agency and the Department of Commerce in support of their functions.

Affected Public: Businesses or other for-profit institutions; small businesses or organizations

Frequency: Annually

Respondent's obligation: Mandatory

OMB Desk Officer: Sheri Fox, 395–3785

Agency: International Trade Administration

Title: Jewel Bearings and Related Components

Form Number: Agency—ITA–941; OMB—0628–0025

Type of Request: Extension of the expiration date of a currently approved collection

Burden: 240 respondents; 720 reporting hours

Needs and Uses: The information collected from consumers of jewel bearings and related components is required in support of mobilization preparedness responsibilities assigned to the Department of Commerce. The information provides data on production, imports and consumption of jewel bearings and related components and is used by several Federal agencies in support of their programs.

Affected Public: Businesses or other for-profit institutions; small businesses or organizations

Frequency: Annually

Respondent's obligation: Mandatory

OMB Desk Officer: Sheri Fox, 395–3785

Agency: International Trade Administration

Title: Defense Priorities and Allocations System (DPAS)

Form Number: Agency—N/A; OMB—0625–0107

Type of Request: Extension of the expiration date of a currently approved collection

Burden: 25,000 recordkeeping hours

Needs and Uses: Under the Defense Production Act (DPA) of 1950, as amended, the President is given authority to allocate materials and facilities and to establish priorities in the performance of contracts and orders in support of the national defense. Any person who receives a rated order under the implementing DPAS regulation must retain a record of the transaction. The records are used in audits/investigations to determine if requirements of the DPA and implementing regulation have been properly followed.

Affected Public: Businesses or other for-profit institutions; small businesses or organizations

Frequency: On occasion

Respondent's obligation: Mandatory

OMB Desk Officer: Sheri Fox, 395–3785

Agency: International Trade Administration

Title: Controlled Materials Requirements (Production, Construction, or Research and Development)

Form Number: Agency—ITA–9048; OMB—0625–0013

Type of Request: Extension of the expiration date of a currently approved collection

Burden: 2,900 respondents; 1,250 hours

Needs and Uses: The information is required in support of the President's priorities and allocations authority under the Defense Production Act of 1950, as implemented by the Defense Priorities and Allocations System Regulation. the survey provides data on the quarterly requirements of controlled materials (copper, steel, aluminum, and nickel alloys) needed in support of authorized defense or energy programs. The information is used by several agencies to make program determinations.

Affected Public: Businesses or other for-profit institutions; small businesses or organizations

Frequency: On occasion

Respondent's obligation: Mandatory

OMB Desk Officer: Sheri Fox, 395–3785

Agency: International Trade Administration

Title: Aluminum Producers and Importers (Receipts, Shipments, and Stocks)

Form Number: Agency—ITA–978; OMB—0625–0016

Type of Request: Extension of the expiration date of a currently approved collection

Burden: 300 respondents; 1,800 reporting hours

Needs and Uses: This information collected from aluminum ingot and mill product producers is required in support of the President's priorities and allocations authority under the Defense Production Act of 1950. This survey provides data on defense rated shipments of aluminum ingot and mill products. The data are used by the International Trade Administration to establish and monitor the obligation ("set-a-sides") of producers of aluminum ingot and mill products to accept defense rated orders.

Affected Public: Businesses or other for-profit institutions; small businesses or organizations

Frequency: Monthly

Respondent's obligation: Mandatory

OMB Desk Officer: Sheri Fox, 395–3785

Agency: International Trade Administration

Title: Request for Special Priorities Assistance

Form Number: Agency—ITA–999; OMB—0625–0015

Type of Request: Extension of the expiration date of a currently approved collection

Burden: 1,800 respondents; 900 reporting hours

Needs and Uses: This information is required in support of the President's priorities and allocations authority under the Defense Production Act of 1950, as amended. Defense contractors may request special priorities assistance when placing defense rated orders with suppliers, or to obtain timely delivery of products or materials from suppliers, in support of authorized national defense and energy programs. This form is used by contractors to apply for such assistance.

Affected Public: Businesses or other for-profit institutions; Federal agencies or employees; small businesses or organizations
Frequency: On occasion
Respondent's obligation: Mandatory
OMB Desk Officer: Sheri Fox, 395–3785

Agency: International Trade Administration
Title: Radial Ball Bearings (30 mm and Under)
Form Number: Agency—ITA–985; OMB—0625–0044
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 15 respondents; 8 reporting hours

Needs and Uses: The information collected from radial ball bearings producers (30 mm and under) is required in support of mobilization preparedness responsibilities assigned to the Commerce Department under the Defense Production Act of 1950. This survey provides data on the shipments, including defense orders and exports and unfilled orders of radial ball bearings. Minature and instrument radial ball bearings are used in many defense critical products. The industry needs to be monitored in view of the deterioration of the domestic radial ball bearing industry.

Affected Public: Businesses or other for-profit institutions
Frequency: Annually
Respondent's obligation: Mandatory
OMB Desk Officer: Sheri Fox, 395–3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230

Written comments and recommendations for the proposed information collections should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: November 13, 1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86–26081 Filed 11–18–86; 8:45 am]

BILLING CODE 3510–07–M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Quarterly Financial Reports
Form Number: Agency—QFR–101A(MG–2), QFR–102A (TR–2), QFR–103A (NB), QFR–106A (CS), QFR–101A(MG–2), QFR–102A(TR–2); OMB—0607–0432, 0607–0433, 0607–0434, 0607–0436
Type of Request: Revision of currently approved collections
Burden: 231,300 respondents; 24,670 reporting hours

Needs and Uses: The QFR is the best available source of timely financial data for gauging quarterly performance of the nonregulated, domestic corporate sector. Collected data are used for the quarterly GNP estimates (BEA), in briefings on conditions and financial markets in various sectors of the economy (FRB); to trace financial performance of small business (SBA); to extrapolate tax-based income (Treasury); as a standard to assess reasonableness of rate increase petitions by the trucking industry (ICC); to respond to Congress inquiries regarding sales, profits, financial position, and rates of return by industry (Joint Committee on Internal Revenue and Taxation); to analyze and explain behavior of retail food prices (Agriculture); as an index to move IRS benchmark data on municipal holding (HUD); and as the only profitability indicator for the establishment of fair selling price, at auction, of government timber (BLM).

Affected Public: Individuals or households
Frequency: Quarterly, annually, biennially
Respondent's Obligation: Mandatory
OMB Desk Officer: Timothy Sprehe, 395–4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503

Dated: November 13, 1986.

Ed Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86–26082 Filed 11–18–86; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Jim Nissmo Elektronik A.B.; Export Privileges; Order

In the matter of Jim A. Nissmo, individually and doing business as Jim Nissmo Elektronik A.B., Repslagarevagen 31 24 500 Staffanstorp, Sweden, Respondents.

The Office of Export Enforcement, International Trade Administration, U.S. Department of Commerce (Department), having determined to initiate an administative proceeding against Jim A. Nissmo, individually and doing business as Jim Nissmo Elektronik A.B. (Nissmo), pursuant to section 13(c) of the Export Adminstration Act of 1979 (50 U.S.C. app. 2401–2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985)) (the Act), and Part 388 of the Export Administration Regulations (currently codified at 15 CFR Parts 368 through 399 (1986)) (the Regulations), based on allegations that Nissmo violated §§ 387.4 and 387.5 of the Regulations in that: (a) Nissmo failed to notify the Department that he was no longer the ultimate consignee of U.S.-origin equipment, a material fact deemed to be continuing in effect and requiring notification to the Department if any change occurs; (b) Nissmo knew or had reason to know that he was violating the Regulations in stating that he would be the ultimate consignee when he knew that he would not be; and (c) Nissmo made false representations to the Office of Export Enforcement during the course of its investigation.

The Department and Nissmo having entered into a Consent Agreement whereby the parties have agreed to settle this matter: (1) by Nissmo's paying a civil penalty of $15,000 to the Department, and (2) by denying all of Nissmo's U.S. export privileges for a period ending ten years from the date of this Order.

The terms of the Consent Agreement having been approved by me;

It is therefore ordered,

First. A civil penalty in the amount of $15,000 is assessed against Nissmo.

Second. Payment of $7,500 of the civil penalty will be made in three equal installments of $2,500 each in the manner specified in the attached instructions. Nissmo shall pay to the Department the first installment of $2,500 within 20 days of service of this Order on Nissmo through his counsel. The second installment shall be due on or before January 30, 1987. The third installment shall be due on or before July 31, 1987. Payment of the remaining $7,500 is suspended, as authorized by

section 388.16 of the Regulations, for a period of ten years from the date of this Order. Payment of the suspended portion will be waived at the end of the 10-year period provided that during that time Nissmo has committed no further violations of the Act, or any regulation, order or license issued under the Act.

Third. Nissmo, individually and doing business as Jim Nissmo Elektronik A.B., for a period ending ten years from the date of this Order, is denied all privileges of participating, directly or indirectly, in any transaction involving the export of U.S.-origin commodities or technical data from the United States or abroad.

A. Without limiting the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation: (1) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States and subject to the Regulations; and (v) in the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

B. Such denial of export privileges shall extend not only to Nissmo but also to his agents, employees and successors. After notice and opportunity for comment, such denial shall also be made applicable to any person, firm, corportion, or business organization with which Nissmo is now or hereafter may be related by affiliation, ownership, control, position of responsibility or other connection in the conduct of export trade or related services.

C. The 10-year denial period set forth above is suspended, as authorized by § 388.16 of the Regulations, and will be waived at the end of the 10-year period provided that during that time Nissmo has committed no further violations of the Act, or any regulation, order or license issued under the Act.

Fourth. The proposed Charging Letter, the Consent Agreement and this Order shall be made available to the public and this Order shall be published in the **Federal Register.**

Fifth. By Order of June 29, 1982 (47 FR 29304) (the Denial Order), Nissmo was denied all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data because of his failure to provide responsive answers to the interrogatories issued pursuant to the Department's investigation of this matter and served on Nissmo on September 28, 1981. Under the terms of the Denial Order, Nissmo was denied export privileges until June 28, 1988 or until he answered responsively the interrogatories or showed good cause for his failure to do so. This Order concludes the matter under investigation which prompted the issuance of the interrogatories.

Therefore, the Denial Order is hereby vacated with respect to Nissmo and all parties related to him.

This Order is effective immediately.

Entered this 7th day of November, 1986.

Theodore W. Wu,

Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 86-26083 Filed 11-18-86; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

[Transmittal and Project I.D. No. DRO—Tulsa MBDC]

Minority Business Development Center (MBDC); Project I.D. Number: DRO—Tulsa MBDC; Applications

Summary

The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a *three (3) year period,* subject to available funds. The cost of performance for the first twelve (12) *months* is estimated at *$194,118* for the project's performance period of *04/1/87 to 03/31/88.* The MBDC will operate in the *Tulsa, Oklahoma Standard Metropolitan Statistical Area (SMSA).* The first year cost for the MBDC will consist of *$165,000* in Federal funds and a minimum of *$29,118* in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian Tribes and educational institutions.

The MBDC will provide management and technical assistance (M&TA) to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance (M&TA); and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA, based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is 12/22/86. Applications must be postmarked On or Before December 22, 1986.

ADDRESS: MBDA—Dallas Regional Office, 1100 Commerce Street, Suite 7B23, Dallas, Texas 75242-0790.

FOR FURTHER INFORMATION CONTACT: Marie Hearne, Business Development Clerk, Dallas Regional Office, 214/767-8001.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Melda Cabrera,

Acting Regional Director, Minority Business Development Agency, Dallas Regional Office.

November 13, 1986.

Section B. Project Specifications

Program Number and Title: 11.800 Minority Business Development.

Project Name: (Geographic Area or (SMSA) Tulsa, Oklahoma MBDC.

Project Identification Number: DRO—TULSA MBDC.

Project Start and End Dates: April 1, 1987 thru March 31, 1988.

Project Duration: 12 mos.

Maximum Federal Funding Level (85%)	$165,000
Minimum Non-Federal Cost Sharing (15%)	29,118
Total project cost	194,118

Closing Date for Submission of this Application: December 22, 1986.

Geographic Specification: The Minority Business Development Center shall offer assistance in the geographic area of: *Tulsa, Oklahoma Standard Metropolitan Statistical Area (SMSA).*

Eligibility Criteria: There are no eligibility restrictions for this project. Eligible applications may include individuals, non-profit organizations, for profit firms, local and state governments, American Indian Tribes, and educational institutions.

Project Period: The project period will be for three years with funding and evaluation on an annual basis. MBDC's will be evaluated on their performance usually during each project period of 12 months or so. The MBDC will be funded each year at the discretion of MBDA based upon the availability of funds, the MBDC's performance, and Agency priorities.

MBDA's *Minimum* levels of effort:

Financial Packages: $2,266,000
M&TA: $103,000
Procurements: $4,807,000
Number of Clients: 65.

Note.—Applicant's *proposed* levels, whether the same, higher or lower are to be justified.

[FR Doc. 86-26090 Filed 11-18-86; 8:45 am]
BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

[P278C]

Marine Mammals; Application for Permit; Mr. Brent S. Stewart, Hubbs Marine Research Center

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Mr. Brent S. Stewart, Hubbs Marine Research Center.

b. Address: 1700 South Shores Road, San Diego, CA 92109.

2. Type of Permit: Scientific Research.

3. Name of Marine Mammals:

Northern elephant seal *(Mirounga angustirostris)*
California sea lion *(Zalophous californianus)*
Harbor seal *(Phoca vitulina)*
Northern sea lion *(Eumetopias jubatus)*
Northern fur seal *(Callorhinus ursinus)*
Guadalupe fur seal *(Arctocephalus townsendi)*

4. Type of Take and Annual Numbers: The applicant requests authorization to take by tagging 2,900 northern elephant seals; to mark up to 100 pups with hair dye; to bleach mark up to 200 adult and subadult males; to mark with hair dye up to 200 adult females; to collect blood samples from 50 of the marked pups and attach microprocessor time-depth recorders to 20 tagged females and 20 tagged males. To take by tagging and weighing 1,000 California sea lions; to attach microprocessor time-depth recorders and/or radio transmitters to 20 parturient or barren females, tagged animal will be marked with hair dye. To take by tagging, 60 harbor seals, with microprocessor time-depth recorders and/or radio-transmitters and cattle ear tags, each tagged animal will have blood samples taken. An unspecified number of northern elephant seals may be inadvertently harassed during the ground surveys and an unspecified number of all 5 species may be inadvertently harassed during aerial surveys.

5. Location of Activity: San Miguel, Santa Rosa, Santa Cruz, Anacapa, Santa Barbara, San Nicolas, Santa Catalina, and San Clemente Islands, California.

6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following office(s):

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Room 805, Washington, DC; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415.

Dated: November 13, 1986.

Richard B. Roe,

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

[FR Doc. 86-26039 Filed 11-18-86; 8:45 am]
BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

November 4, 1986.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group will meet at the MITRE Corp., Burlington Road, Bedford, MA on January 8, 1987 from 8:30 a.m. to 5:00 p.m. and at the Command Management Center, Hanscom AFB, MA on January 9, 1987 from 8:30 a.m. to 12:00 noon.

The purpose of the meeting is to review, discuss and evaluate communications technology and mission critical software initiates.

The meeting concerns matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-26029 Filed 11-18-86; 8:45 am]
BILLING CODE 3910-01-M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Research Advisory Committee panel on Over the Horizon Targeting Capabilities will meet on December 3-4, 1986, at the Office of

Naval Research, 800 North Quincy Street, Arlington, Virginia. The meeting will commence at 8:00 A.M. and terminate at 5:00 P.M. on December 3; and commence at 8:30 A.M. and terminate at 5:00 P.M. on December 4, 1986. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to conduct a comprehensive review of existing and planned over the horizon targeting programs; determine current and projected over the horizon targeting and related command and control capabilities and limitations; and identify any problems and recommend solutions. The agenda will consist of technical briefings and discussions addressing over the horizon targeting capabilities, program tactics and operations. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander T.C. Fritz, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217–5000, Telephone Number (202) 696–4870.

Dated: November 14, 1986

Harold R. Stoller, Jr.,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 86–26057 Filed 11–18–86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

National Council on Educational Research; Meeting

AGENCY: National Council on Educational Research, Education.

ACTION: Full Council meeting of the National Council on Educational Research.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the National Council on Educational Research. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(A)(2) of the Federal Advisory Committee Act.

DATES: December 4 and 5, 1986.

ADDRESS: The Council will meet on December 4 from 10 a.m. to 3 p.m. in Conference Room 326 at 555 New Jersey Avenue NW., Washington, DC 20208. From 3:30 p.m. to 5 p.m. Council Members will be conducting a site visit to the ERIC Clearinghouse on Teacher Education, Suite 610, One Dupont Circle, Washington, DC 20036, and to the ERIC Clearinghouse on Higher Education, Suite 630, One Dupont Circle, Washington, DC 20036.

The Council will meet on December 5 from 9 a.m. to 1 p.m. at the Omni Shoreham Hotel, 2500 Calvert St. NW., Washington, DC 20008 (conference room to be announced).

FOR FURTHER INFORMATION CONTACT: Mary Grace Lucier, Executive Director, National Council on Educational Research, 2000 L. St. NW., Suite 617 B, Washington, DC 20036, (202) 254–7490.

SUPPLEMENTARY INFORMATION: The National Council on Educational Research is established under section 405 of the General Education Provisions Act (20 U.S.C. 1221 e); Department of Education organization plan implemented pursuant to section 413 of Pub. L. 96–88 and notice to Congress dated July 2, 1985. The Council is established to advise the Secretary of Education on policies and priorities for the Office of Educational Research and Improvement (OERI), and to review the conduct of OERI and to advise the Secretary of Education and the Assistant Secretary for OERI on development of programs to be carried out by OERI.

Meetings of the Council are open to the public. The agenda for December 4 includes briefings on the National Diffusion Network by Dr. Shirley Curry, Director, Recognition Division of the Office of Educational Research and Improvement, and on Library Programs by Dr. Anne Mathews, Director, Library Programs, OERI. The agenda for December 5 will cover lab/center site visit reports by Members and a discussion of privatization issues by Dr. Myron Lieberman of the Graduate School of Education, the University of Pennsylvania.

Records are kept of all Council Proceedings and are available for public inspection at the office of the National Council on Educational Research, 2000 L. St. NW., Suite 617 B, Washington, DC 20036, from the hours of 9 a.m. to 5 p.m. Monday through Friday.

Dated: November 14, 1986.

Mary Grace Lucier,

Executive Director.

[FR Doc. 86–26037 Filed 11–18–86; 8:45 am]

BILLING CODE 4000-01-M

Vocational Education National Council; Meetings

AGENCY: National Council on Vocational Education, ED.

ACTION: Notice of Public Meeting of the Council.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: December 6, 1986.

ADDRESS: Loews Anatole Hotel, 2201 Stemmons Freeway, Dallas, Texas 75207, (214) 748–1200.

FOR FURTHER INFORMATION CONTACT: Dr. Joyce L. Winterton, Executive Director, National Council on Vocational Education, 2000 L Street, NW., Suite 580, Washington, DC 20036, (202) 634–6110.

SUPPLEMENTARY INFORMATION: The National Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90–576. The Council advises the President, Congress, and the Secretary of Education on:

A. Effectiveness of the act in providing students with skills that meet needs of employers;

B. Strategies for increasing cooperation between business and vocational education for training for new technologies;

C. Practical approaches for retraining adult workers;

D. Effective ways of providing access to information regarding market demand for skills;

E. Vocational education needs of the handicapped and their level of participation in vocational programs;

F. Implementation of the Jobs Training Partnership Act, and policies needed to build a coordinated capacity to train America's work force.

The meeting of the Council is open to the public. The proposed agenda will include:

Follow-up Discussion on Project Catalyst

Discussion of FY 1987 plan of work
Discussion on FY 86 Annual Report

Records are kept of the Council's proceedings, and are available for public inspection at the office of the National Council on Vocational Education from 9:00 AM to 4:30 PM at 2000 L Street NW., Suite 580, Washington, DC, 20036.

Signed at Washington, DC on November 14, 1986.

Joyce L. Winterton,

Executive Director.

[FR Doc. 86-26034 Filed 11-18-86; 8:45 am]

BILLING CODE 4000-01-M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Deputy Under Secretary for Management 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 December 19, 1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 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 Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that 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 its statutory obligations.

The Director, Information Technology Services, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) agency form number (if any); (4) frequency of collection; (5) the affected public; (6) Reporting burden; and/or (7) recordkeeping burden; and (8) abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: November 14, 1986.

Carlos U. Rice,

Acting Director Information Technology Services.

Office of Postsecondary Education

Type of Review: Extension
Title: Application for Certification for Participation in Programs under Title IV of the Higher Education Act of 1965, as amended.
Agency Form Number: ED 633
Frequency: Annually
Affected Public: Business or other for profit
Reporting Burden:
Responses: 1500
Burden Hours: 3000
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This form is used by colleges, universities and vocational schools to apply to the Department of Education to become certified to participate in student financial assistance programs under Title IV, of the Higher Education Act of 1965, as amended.

Type of Review: Reinstatement
Title: Request for Institutional Eligibility for Programs under the Higher Education Act of 1965, as amended.
Agency Form Number: EDD 1059
Frequency: Annually
Affected Public: State or local governments; Businesses or other for-profit; Non-profit institutions
Reporting Burden:
Responses: 1200
Burden Hours: 1200
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: Under the Higher Education Act of 1965, as amended, the Secretary of Education must determine which postsecondary institutions are eligible to receive Federal funds for themselves or their students. The Secretary uses the information collected on this form to determine the eligibility of these institutions.

Type of Review: New
Title: National Rehabilitative Personnel and Training Needs Assessment
Agency Form Number: B20-20P
Frequency: On occasion
Affected Public: State or local governments; Non-profit institutions
Reporting Burden:
Responses: 587
Burden Hours: 2000
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This assessment will collect information from State Vocational Rehabilitation agencies and local service providers on manpower and training needs for the qualified personnel necessary to provide services to handicapped individuals. This information will be used to fulfill the reporting requirements of section 304(c) of the Rehabilitation Act of 1984, as amended.

[FR Doc. 86-26112 Filed 11-18-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Issuance of Proposed Remedial Order to Morrison Petroleum Co., Inc. and Opportunity for Objection

AGENCY: Economic Regulatory Administration, U.S. Department of Energy.

ACTION: Notice of issuance of proposed remedial order to Morrison Petroleum Company, Inc. and notice of opportunity for objection.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Morrison Petroleum Company, Inc. (Morrison), 2600 South 1600 W., Woods Cross, Utah 84087. This Proposed Remedial Order charges Morrison with filing erroneous Refiners Monthly Reports (Form P-102-M-1) concerning crude oil refined under processing agreements with other refiners. The processing period was July 1976 through May 1977. ERA alleges that Morrison did not own 2,577,774 barrels of crude oil refined pursuant to the agreements and thus its receipt of $4,843,227 in small refiner bias entitlements on those barrels was unlawful. The impact of Morrison's unlawful receipt of these small refiner bias entitlements was spread nationwide among all refiner participants in the Entitlements Program.

A copy of the Proposed Remedial Order, with confidential information deleted, if any, may be obtained from the DOE Freedom of Information Reading Room, U.S. Department of Energy, 1000 Independence Avenue SW., Room 1E–190, Washington, DC 20585.

Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 6F–055, 1000 Independence Avenue SW., Washington, DC 20585, in accordance with 10 CFR 205.193. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the proposed order. If a Notice of Objection is not filed in accordance with § 205.193, the proposed order may be issued as a final Remedial Order by the Office of Hearings and Appeals.

Issued in Washington, DC on the 12th day of November, 1986.

Marshall A. Staunton,

Administrator, Economic Regulatory Administration.

[FR Doc. 86–26062 Filed 11–18–86; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. CP87–46–000 et al.]

Natural Gas Certificate Filings: Alabama-Tennessee Natural Gas Co. et al.

Take notice that the following filings have been made with the Commission:

1. Alabama-Tennessee Gas Co.

[Docket No. CP87–46–000]

November 12, 1986.

Take notice that on October 30, 1986, as supplemented November 10, 1986, Alabama-Tennessee Natural Gas Company (A–T), P.O. Box 918, Florence, Alabama 35631, filed in Docket No. CP87–46–000 an application pursuant to section 7(c) of the Natural Gas Act to transport up to 10,000 Mcf of natural gas per day on an interruptible basis for the Tennessee Valley Authority (TVA), along with a request for pre-granted abandonment, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

A–T indicates that it proposes to provide the service in accordance with the terms and conditions of a transportation agreement between A–T and TVA dated October 15, 1986, which A-T indicates provides for a term expiring two years from the date of initial deliveries.

A–T states that TVA would cause gas to be delivered to various points of interconnection of the facilities of Tennessee Gas Pipeline Company (Tennessee Gas) or Columbia Gulf Transmission Company (Columbia Gulf) or Tennessee River Intrastate Gas Company, Inc. (TRIGAS), for redelivery to A–T. It is indicated that A–T would receive such gas at the existing points of interconnection between A–T and: (1) Tennessee Gas located in Alcorn County, Mississippi, or Colbert County, Alabama, and/or (2) Columbia Gulf located in Alcorn County, Mississippi, and/or (3) the interconnection being constructed between A–T and TRIBAS, located in Colbert County, Alabama. A–T has further requested authority under section 7(c) of the Natural Gas Act to receive natural gas from TRIGAS for redelivery to TVA. It is also indicated that TRIGAS, in turn, would receive the natural gas which it delivers to A–T from Texas Eastern Transmission Corporation. A–T states that it would redeliver to TVA an equivalent quantity of gas to the existing point of interconnection between the facilities of A–T and TVA.

A–T states that TVA has agreed to pay each month for the transportation services rendered the applicable transportation charge(s) as approved by the Federal Energy Regulatory Commission. A–T indicates that initially it would charge maximum and minimum rates of 15.96 cents per Mcf of gas and 6.63 cents per Mcf of gas, respectively, and that it would credit to Account No. 191 as described in the Commission's Uniform System of Accounts the revenues derived from this service until transportation quantities of gas are allocated in a rate case.

A–T alleges that if the application is approved, TVA would be permitted to enter the natural gas spot market in search of cheaper natural gas for operation of its fertilizer products, thereby reducing the need for federal funds for such purposes.

Comment date: December 3, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Natural Gas Pipeline Company of America

[Docket No. CP87–48–000]

November 13, 1986.

Take notice that on October 31, 1986, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP87–48–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing transportation of up to 4 billion Btu equivalent of natural gas per day on an interruptible basis for Kerr Glass Manufacturing Corporation (Kerr Glass), a high-priority industrial end-user, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant proposes to provide the transportation service pursuant to a gas transportation agreement dated July 14, 1986, for a period of two years from the date of first delivery and month to month thereafter. Applicant states that the gas would be used by Kerr Glass at its Plainfield plant in furnaces used for the manufacture of glass. Applicant would receive gas for the account of Kerr Glass at the following receipt points: (1) The existing interconnection between Applicant and ONG Transmission company (ONG) in Woodward County, Oklahoma; (2) the existing interconnection between Applicant and ONG in Custer County, Oklahoma; (3) the existing interconnection between Applicant and Houston Pipe Line Company (HPL) in Nueces County, Texas; (4) the existing interconnection between Applicant and HPL in Jim Hog County, Texas; and (5) the existing interconnection between Applicant and Transwestern Pipeline Company in Hansford County, Texas. Applicant further requests authorization to add or delete additional receipt points in the future that may be necessary to support this service. Applicant states that redeliveries of gas for the account of Kerr Glass would be made to Northern Illinois Gas Company (NIGAS) at existing interconnections between the Applicant and NIGAS in DuPage County, Illinois and in Livingston County, Illinois, for redelivery by NIGAS to Kerr Glass at its Plainfield plant located in Will County, Illinois.

Applicant proposes to charge Kerr Glass the following transportation rates:

Point of Receipt	Point of delivery	Transportation rate per MMBtu (in cents)
Woodward County, OK	Du Page County, IL.	28.8
	Livingston County, IL.	28.8
Custer County, OK	Du Page County, IL.	30.7
	Livingston County, IL.	30.7
Nueces County, TX	Du Page County, IL.	43.3
	Livingston County, IL.	43.3
Jim Hogg County	Du Page County, IL.	46.1
	Livingston County, IL.	46.1

Point of Receipt	Point of delivery	Transportation rate per MMBtu (in cents)
Hansford County, TX	Du Page County, IL.	29.6
	Livingston County, IL.	29.6

Applicant states that quantities of gas redelivered would be less fuel use and unaccounted-for losses. Applicant also proposes to charge Kerr-Glass the currently effective GRI surcharge as set forth on Tariff Sheet No. 5A of Applicant's Volume No. 1 Tariff.

Comment date: December 4, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Northern States Power Company—Minnesota

[Docket No. CP81–522–005]

November 13, 1986.

Take notice that on October 24, 1986, Northern States Power Company-Minnesota (Applicant), 414 Nicollet Mall, Minneapolis, Minnesota 55401 filed in Docket No. CP81–522–005 an amendment to the order issued December 28, 1982, in Docket No. CP81–522–000, as amended, pursuant to sections 4 and 7(c) of the Natural Gas Act so as to authorize Applicant to amend its liquefied natural gas (LNG) service agreement with Northern States Power Company-Wisconsin (NSP-Wisc), and to revise the formula to calculate the rate charged for such LNG services pursuant to Rate Schedule LNGA–3 of Applicant's FERC Gas Tariff, Original Volume No. 1, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that on February 19, 1985, it signed a revised agreement to provide LNG services to its wholly-owned subsidiary NSP-Wisc. It is stated that under the original agreement Applicant provided liquefaction services to NSP-Wisc for up to 100,000 Mcf of natural gas per year. It is further stated that Applicant accepted delivery and liquefied the NSP-Wisc gas at Applicant's Westcott LNG facility and redelivered the LNG to NSP-Wisc for transportation by cryogenic vehicle. Applicant states that the revised agreement reduces the contract quantity from 110,000 Mcf per year to 50,000 Mcf per year and that the revised agreement allows Applicant to provide additional liquefaction and redelivery services by mutual consent of the parties. The revised agreement also establishes a new formula calculating the rates to be charged for such LNG services, it is stated.

Applicant states that NSP-Wisc requested the reduced level of service because of modifications to NSP-Wisc's liquefaction operating equipment and the availability of group billing from Northern Natural Gas Company, Division of Enron Corp., NSP-Wisc's pipeline gas supplier.

Comment date: December 4, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. Northern Natural Gas Company

[Docket No. CP87–42–000]

November 13, 1986

Take notice that on October 28, 1986, Northern Natural Gas Company (Northern) 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP87–42–000 a request pursuant to §§ 157.205 and 157.211 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate measurement stations for 5 residential, agricultural and commercial customers, under the certificate issued in Docket No. CP82–401–000, pursuant to 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.

It is stated that all 5 customers, as listed below, would be served by Peoples Natural Gas Company (Peoples), the local distribution company.

End-user	Peak day volumes (Mcf)	Location	End-use
Leon Beckman	2.0	Minnehaha County, SD.	Residential heat.
Mervin Miller	45.0	Dickinson County, IA.	Grain drying.
Scott Randall	1.0	Story County, IA.	Residential heat.
U.S. Steel	488.0	St. Louis County, MN.	Heating for mobil equipment shop.
Terry Williams	1.0	Mills County, IA.	Residential heat.

Northern states that deliveries to these measurement stations will be made within the existing firm entitlements of Peoples. It is stated that the total estimated cost of the proposal would be $52,080, of which Peoples would contribute $2,895.

Comment date: December 29, 1986, in accordance with Standard Paragraph G at the end of this notice.

5. Panhandle Eastern Pipe Line Company and Trunkline Gas Company

[Docket No. CP82–211–003]

November 13, 1986.

Take notice that on October 31, 1986, Panhandle Eastern Pipe Line Company and Trunkline Gas Company (Applicants), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP82–211–003 a petition to amend the order issued August 16, 1982 (20 FERC ¶ 62,275), in Docket No. CP82–211, pursuant to section 7(c) of the Natural Gas Act so as to authorize an additional 1,250 Mcf per day of interruptible transportation service to Southern Natural Gas Company (Southern), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Applicants state that by order issued August 16, 1982, in Docket No. CP82–211, Applicants were authorized to receive, transport and redeliver a firm transportation quantity of natural gas up to 750 Mcf per day on behalf of Southern pursuant to a transportation agreement among Applicants and Southern dated December 23, 1981 (Agreement). It is further stated that Panhandle receives natural gas from a point of interconnection with Southern in Custer County, Oklahoma, and transports and redelivers to Trunkline at Tuscola, Illinois, for ultimate redelivery to Southern in St. Mary Parish, Louisiana. Applicants indicate that Panhandle provides its portion of the transportation service pursuant to Rate Schedule T–50 of its FERC Gas Tariff, Original Volume No. 2 and that Trunkline provides its portion of the transportation service pursuant to Rate Schedule T–74 of its FERC Gas Tariff, Original Volume No. 2.

Applicants indicate that on April 29, 1986, they entered into an amendment to the Agreement, which provides for an additional 1,250 Mcf per day of interruptible transportation service to Southern. Applicants further indicate that the additional interruptible transportation quantity would be received by Panhandle from the above-referenced Custer County, Oklahoma, point of receipt and redelivered to Southern in St. Mary Parish, Louisiana, by Trunkline.

Applicants state that no new or additional facilities would be required as a result of the requested amended authority. Applicants further state that they would charge Southern an interruptible transportation rate of 29.1¢ cents per Mcf.

Comment date: December 4, 1986, in accordance with the first subparagraph

of Standard Paragraph F at the end of this notice.

6. Philadelphia Electric Co., Complaint v. Transcontinental Gas Pipe Line Corp., Respondent

[Docket No. CP87-37-000]

November 12, 1986.

Take notice that on October 24, 1986, Philadelphia Electric (PECo), 2301 Market Street, Philadelphia, Pennsylvania 19101, filed in Docket No. CP87-37-000 pursuant to §§ 385.206, 385.207, 385.212, and 385.217 of the Commission's Rules of Practice and Procedure a petition for declaratory order, complaint and request for order directing compliance by Transcontinental Gas Pipe Line Corporation (Transco) with § 284.10 of the Commission's Regulations, which requires, in accordance with the Commission's Order No. 436, that interstate pipelines which provide open access transportation service after June 30, 1986, must offer the sales customers to the opportunity to convert existing firm sales entitlements to firm transportation, all as more fully set forth in the complaint and request which is on file with the Commission and open to public inspection.

PECo, a local distribution company (LDC), states that it has been a traditional sales, storage, and transportation customer of Transco. PECo further states that Order No. 436 provides that when a pipeline commences or continues transportation under section 311 of the NGPA after June 30, 1986, its firm sales customers have the right either to reduce their firm sales entitlements or to convert those entitlements into firm transportation. On July 2, 1986, PECo asserts that Transco requested that the Commission issue a waiver of § 284.10(a)(1) of the Regulations to permit it to engage in new section 311 transportation after June 30, 1986 without granting its firm sales customers either the reduction or the conversion option. It is indicated that subsequently, by letters dated July 28, 1986, Transco announced to its customers and to the Commission that it was commencing new section 311 transportation, without waiting for Commission waiver of § 284.10(a)(1). Relying on Order No. 436 and Transco's stated policy, by letter dated August 11, 1986, and consistent with § 284.10, PECo states that it notified Transco of (1) the conversion of 15% of its contract sales demand to firm transportation, (2) the desired receipt and delivery points, and (3) an effective date of November 1, 1986. PECo explains that Transco responded by refusing to comply.

PECo explains that the Commission ultimately issued a waiver to Transco of § 284.10 of the Regulations September 26, 1986. However, PECo notes that the order granting the waiver provided that such waiver would be prospective only. Therefore, PECo alleges that between the time Transco commenced section 311 transportation services and when Transco was granted a waiver, it was in violation of the requirements of § 284.10. In view of this, PECo requests that the Commission:

1. By declaratory order, find that the conversion option exercised by PECo in its August 11, 1986 letter was in conformity with § 284.10 and becomes effective on November 1, 1986.

2. Order Transco to provide the firm transportation that PECo has requested, and order Transco to acknowledge and effect a 15% conversion in PECo's contract demand entitlements, effective November 1, 1986.

Comment date: December 1, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

7. Tennessee Gas Pipeline Co. a Division of Tenneco Inc.

[Docket Nos. CP84-441-020 and CP80-65-060]

November 13, 1986.

Take notice that on October 29, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket Nos. CP84-441-020 and CP80-65-060 a petition to further amend the Commission's orders issued in Docket Nos. CP84-441-000, *et al.*, as amended, and CP80-65-000, *et al.*, as amended, pursuant to section 7(c) of the Natural Gas Act so as to authorize Petitioner to provide firm storage-related transportation services under its existing Rate Schedules SST-NE and FSST-NE, within existing transportation quantity authorizations, to or from any storage contractor in any increment of the total authorized transportation quantity for any customer having storage arrangements with more than one storage contractor, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that certain of its Rate Schedules SST-NE and FSST-NE customers have storage arrangements with more than one storage contractor and that the Commission has authorized Petitioner to transport discrete quantities of storage gas to and from each storage contractor for each affected customer under each rate schedule. The storage contractors are Penn-York Energy Corporation, Honeoye Storage Corporation, and Consolidated Gas Transmission Corporation. In order to provide increased flexibility to the affected Rate Schedule FSST-NE and SST-NE customers' utilization of currently contracted storage and transportation capacity to best serve the gas supply requirements on their systems, Petitioner requests authorization (1) to provide firm storage service transportation for the following customers up to the total quantity shown for each rate schedule and (2) to eliminate the restrictions regarding specific quantities of gas delivered to or received from each storage contractor:

Rate schedule	Customer	Quantity (dekatherms per day)
SST-NE	Berkshire Gas Co.	3,731
	EnergyNorth, Inc.	4,244
	Essex County Gas Co.	4,072
	Valley Gas Co.	4,197
FSST-NE	Boston Gas Co.	13,040
	Connecticut Natural Gas Corp.	5,658
	EnergyNorth, Inc.	4,804

Petitioner states that the proposed service would be rendered in accordance with the terms and conditions of the FSST-NE and SST-NE Rate Schedules, and that the existing points of receipt, delivery and interconnection for each customer would not be changed. Petitioner further states that no additional facilities would be required to render the proposed service and that no capacity on Petitioner's system in excess of that currently used to provide storage transportation service for the affected customers would be utilized. *Comment date:* December 4, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to

intervene in accordance with the Commission's Rules

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-26047 Filed 11-18-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER87-25-000 et al.]

Electric Rate and Corporate Regulation Filings; Florida Power Corp. et al.

November 12, 1986.

Take notice that the following filings have been made with the Commission:

1. Florida Power Corp.

[Docket No. ER87-25-000]

Take notice that on October 27, 1986, Florida Power Corporation (Florida Power) tendered for filing information intended to supplement its October 13, 1986, filing of a Scheduling Service Agreement with Seminole Electric Cooperative, Inc. This supplemental filing consists of additional explanation of the cost components of the proposed rates.

Florida Power again requests that the Scheduling Service Agreement be made effective as a rate scheduled on October 20, 1986, and therefore requests waiver of the sixty (60) day notice requirement. Copies of this filing have been served on Seminole Electric Cooperative, Inc., Southern Company Services, Inc., Oglethorpe Power Corporation, and the Florida Public Service Commission.

Comment date: November 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Middle South Services, Inc.

[Docket No. ER87-55-000]

Take notice that Middle South Services, Inc. (MSS), as agent for Arkansas Power & Light Company (AP&L), Louisiana Power & Light Company (LP&L), Mississippi Power & Light Company (MP&L) and New Orleans Public Service, Inc. (NOPSI), on October 29, 1986, tendered for filing a letter agreement for sale of peaking capacity to Oklahoma Gas & Electric Company from AP&L, LP&L, MP&L and NOPSI.

Comment date: November 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Ogden Haverhill Associates

[Docket No. ER87-76-000]

Take notice that on November 3, 1986, Ogden Haverhill Associates tendered for filing an executed agreement providing for the sale of capacity and energy to New England Power Company. The filing company also submitted a petition for waiver of rules not appropriate for application to PURPA qualifying facilities. The filing company requests waiver of the prior notice requirements of the Commission's regulations to permit the proposed rate schedule to be filed more than 120 days prior to the effective date. The filing company also requests acceptance of the formula set forth in the executed agreement as the rate so that changes in the charges due to the operation of the formula need not be filed pursuant to the Commission's regulations, 18 CFR Part 35.

Comment date: November 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Southern California Edison Co.

[Docket No. ER87-69-000]

Take notice that on October 31, 1986, Southern California Edison Company ("Edison") tendered for filing a change of rate for scheduling and dispatching services under the provisions of Edison's agreements with the parties listed below as embodied in their FERC Rate Schedules. Edison requests that the new rates for these services be made effective January 1, 1987.

Entity	Rate schedule FERC No.
1. City of Riverside ("Riverside")	129, 165, 192, and 194.
2. City of Anaheim ("Anaheim")	130, 164, and 193.
3. City of Vernon ("Vernon")	149, 154.7, and 172.
4. City of Banning ("Banning")	159, and 190.
5. City of Azusa ("Azusa")	160, and 189.
6. City of Colton ("Colton")	162, and 191.

Edison states that the filing is in accordance with the terms of each of these agreements, which state that the rates for these services will be redetermined prior to January 1 of each year based on Edison's annual budget for load dispatching and production section function expenses for that year.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: November 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Co.

[Docket No. ER87-70-000]

Take notice that on October 31, 1986, Southern California Edison Company ("Edison") tendered for filing a change of rate for scheduling and dispatching services under the provisions of Edison's agreements with the parties listed below as embodied in their FERC Rate Schedules. Edison requests that the new rates for these services be made effective January 1, 1987.

Entity	Rate schedule FERC No.
1. City of Pasadena ("Pasadena")	158, and 177.
2. Arizona Power Pooling Association ("APPA").	92, and 93.
3. City of Los Angeles ("Los Angeles")	102, 118, 140, 141, 163, and 188.
4. State of California, Department of Water Resources ("CDWR").	112, 113, and 181.
5. City of Burbank ("Burbank")	166, and 175.
6. Pacific Gas and Electric Company ("PGandE").	117 and 147.
7. Western Area Power Administration ("Western").	120.
8. Arizona Electric Power Cooperative Inc. ("AEPCO").	132, and 161.
9. City of Glendale ("Glendale")	143, and 176.
10. San Diego Gas and Electric Company ("SDG&E").	151.
11. M-S-R Public Power Agency ("M-S-R").	153.
12. Salt River Project Agricultural Improvement and Power District ("Salt River").	184.

Entity	Rate schedule FERC No.
13. Arizona Public Service Company ("APS").	185.

Edison states that the filing is in accordance with the terms of each of these agreements, which state that the rates for these services will be redetermined prior to January 1 of each year based on Edison's annual budget for load dispatching and production section expenses for that year.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: November 25, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Bangor Hydro-Electric Co.

[Docket No. ER 86-683-000]

Take notice that on October 24, 1986, Bangor Hydro-Electric Company (the Company) tendered for filing the First Amendment to Power Sale Agreement With Respect to Wyman No. 4.

Comment date: November 26, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Central Vermont Public Service Corp.

[Docket No. ER86-658-000]

Take notice that on October 29, 1986, Central Vermont Public Service Corporation (CVPS) tendered for filing a revised filing in Docket No. ER86-658-000. The docket pertains to a proposed rate schedule filed with the Commission on August 14, 1986, between CVPS and Citizens Utilities Company (CU).

CVPS states that this revision has taken place to reflect the costs associated with the Merrimak No. 2 Generating Station.

CVPS states that this amended filing is being mailed to CU, the Vermont Public Service Board and the Vermont Department of Public Service.

Comment date: November 26, 1986, in accordance with Standard Paragraph E at the end of this document.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-26046 Filed 11-18-86; 8:45 am]

BILLING CODE 6717-01-M

Hydroelectric Applications; Re-Notice of Application Filed with the Commission [1]

November 14, 1986.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. Type of Application: Preliminary permit.

b. Project No.: 10033-000.

c. Date Filed: July 7, 1986.

d. Applicant: The Town of Wilmington, New York.

e. Name of Project: Wilmington.

f. Location: West Branch of the Ausable River, Essex County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Donal S. DeMacy, Supervisor, Town Hall, Wilmington, NY 12997, (518) 946-7174.

i. Comment Date: December 17, 1986.

j. Competing Application: Project No. 9234-000 Date Filed: May 28, 1985.

k. Description of Project: The proposed project would consist of: (1) An existing concrete gravity dam 230 feet long and 16 feet high; (2) an existing impoundment of 3.2 acres surface area and 32 acre-feet mean sea level; (3) a proposed masonry intake-powerhouse 10 feet wide, 15 feet long, and housing two proposed turbine-generators of 360-kW combined capacity at a net hydraulic head of 18 feet; (4) a proposed 17.4-kV transmission line 200 feet long; and (5) appurtenant facilities.

The estimated annual energy production is 1.6 GWh. Project power would be sold to New York State Electric and Gas Corporation. The existing facilities are owned by the applicant. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $15,000.

l. This notice also consists of the following standard paragraphs: A8, A10, B, C, D2.

[1] Previous Notice not published in the Federal Register.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A10. Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or *"MOTION TO INTERVENE"*, as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street

NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–26097 Filed 11–18–86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF–471; FRL–3109–8]

Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of pesticide petitions by FMC Corp. proposing tolerances for residues of the insecticide (2-methyl[1,1'-biphenyl]-3-yl)methyl -3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecaroxylate (referred to hereafter as bifenthrin) in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF–471] at the following address:

Information Services Section (TS–757C), (Attn: Product Manager (PM) 15), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to:

Information Services Section (TS–757C), Rm. 204, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

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

FOR FURTHER INFORMATION CONTACT:

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

Office location and telephone number: Rm. 204, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2400).

SUPPLEMENTARY INFORMATION: FMC Corp., 2000 Market St., Philadelphia, PA 10103, has submitted the following pesticide petitions (PP) proposing to amend 40 CFR Part 180 by establishing tolerances for residues of the insecticide bifenthrin in or on certain raw agricultural commodities:

1. *PP 6F3454:* Peaches at 2.0 parts per million (ppm), pears and strawberries at 1.0 ppm, and pecans at 0.05 ppm.

2. *PP 6F3453:* Cattle—fat, meat, and meat byproducts (mbyp) at 0.1 ppm; cottonseed at 0.5 ppm; goats—fat, meat, and mbyp at 0.1 ppm; hogs—fat, meat, and mbyp at 0.1 ppm; horses—fat, meat and mbyp at 0.1 ppm; milk at 0.02 ppm; and sheep—fat, meat, and mbyp at 0.1 ppm.

The proposed analytical method for determining residues is gas chromatography.

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

Dated: October 31, 1986.

James W Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–25579 Filed 11–18–86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS–59793; FRL–3114–6]

Certain Chemical Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of eleven such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 87–19 and 87–20—November 20, 1986.

Y 87–21 and 87–22—November 23, 1986.

Y 87–23 and 87–24—November 24, 1986.

Y 87–25 and 87–26—November 25, 1986.

Y 87–27 and 87–28 and 87–29—November 26, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 87–19

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer.

Use/Production. (G) Emulsifier. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 87–20

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer.

Use/Production. (G) Emulsifier. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 87-21

Importer. Dynamit Nobel Chemicals.
Chemical. (G) Polyester resin of aryl dicarboxylic acids, alkane diol and dimeric fatty acids.
Use/Import. (G) Hot melt adhesive. Import. range: 20,000 to 100,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 87-22

Importer. Dynamit Nobel Chemicals.
Chemical. (G) Polyster resin of aryl dicarboxylic acids and alkane diols.
Use/Import. (G) Resin for coil coatings paint. Import range: 30,000 to 100,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 87-23

Manufacturer. Confidential.
Chemical. (G) Saturated polyester resin.
Use/Production. (S) Industrial polyester coating resin component. Prod. range: 110,000 to 218,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 87-24

Importer. Confidential.
Chemical. (G) Polyacrylate.
Use/Import. (S) Binder for sealers and filler sealers. Import range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 87-25.

Manufacturer. Confidential.
Chemical. (G) Vinyl toluene alkyd copolymer.
Use/Production. (S) Industrial coating resin vehicle. Prod. range: 340,900 to 363,600 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 87-26.

Manufacturer. Confidential.
Chemical. (G) Unsaturated polyester.
Use/Production. (S) Industrial glass fiber binder. Prod. range: 46,000 to 200,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 87-27

Importer. Dynamit Nobel Chemicals.
Chemical. (G) Polyester resin of aryl dicarboxylic acids, alkane diols and dimeric fatty acids.
Use/Import. (G) Resin for paint. Import. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 87-28

Importer. Dynamit Nobel Chemicals.
Chemical. (G) Polyester resin of aryl dicarboxylic acids, alkane diols and ester.
Use/Import. (S) Industrial base for coil-coating paint for outdoor exposure. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 87-29

Importer. Confidential.
Chemical. (G) Alkyd resin.
Use/Import. (G) Protective and decorative coating. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Dated: November 12, 1986.

V. Paul Fuschini,

Acting Division Director, Information Management Division.

[FR Doc. 86-26078 Filed 11-18-86; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-51649; FRL-3114-8]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) permanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of forty-six such PMNs and provides a summary of each.

DATES: Close of Review Period:.

P 87-148, 87-149, 87-150, 87-151, 87-152, 87-153, 87-154, 87-155, 87-156, 87-157, 87-158, 87-159, 87-160, 87-161, and 87-162—January 28, 1987.

P 87-163, 87-164, 87-165, 87-166, 87-167, 87-168, 87-169, 87-170, 87-171, 87-172, 87-173, 87-174, 87-175, 87-176, 87-177, 87-178, 87-179, 87-180, 87-181, and 87-182—Janaury 31, 1987

P 87-183, 87-184, 87-185, and 1986—February 1, 1987.

P 87-187, 87-188, 87-189—February 2, 1987.

P 87-190, 87-191, 87-192 and 87-193—February 3, 1987.

Written comments by:

P 87-148, 87-149, 87-150, 87-151, 87-152, 87-153, 87-154, 87-155, 87-156, 87-157, 87-158, 87-159, 87-160, 87-161 and 87-162—December 29, 1986.

P 87-163, 87-164, 87-165, 87-166, 87-167, 87-168, 87-169, 87-170, 87-171, 87-172, 87-173, 87-174, 87-175, 87-176, 87-177, 87-178, 87-179, 87-180, 87-181 and 87-182—January 1, 1987.

P 87-183, 87-184, 87-185, and 87-186—January 2, 1987.

P 87-187, 87-188 and 87-189—January 4, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS-51649]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 87-148

Manufacturer. Confidential.
Chemical. (G) Acrylate capped polyurethane diol.
Use/Production. (G) Non-yellowing coating for optical and electronic

components. Prod. range: 25,000 to 50,000 kg/yr.

Toxicity Data. Acute oral: >5g/kg; Acute Dermal: 72 g/kg; Irritation: Skin—Primary irritant, Eye—Non-irritant.

Exposure. Confidential.

Environmental Release/Disposal. Release to land. Disposal by approved landfill.

P 87–149

Manufacturer. Confidential.

Chemical. (G) Substituted alkylene amine.

Use/Production. (G) Destructive use. Prod. Range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 30 workers, up to 4 hrs/day, up to 34 days/yr.

Environmental Release/Disposal. No release. Disposal by approved landfill and Resource Conservation and Recovery Act (RCRA).

P 87–150

Manufacturer. E.I. du Pont de Nemours and Company, Inc.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal.

Environmental Release/Disposal. Confidential. Disposal by incineration.

P 87–151

Manufacturer. E.I. du Pont de Nemours and Company, Inc.

Chemical. (G) Acrylic copolymer.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 4 workers.

Environmental Release/Disposal. Confidential. Disposal by incineration.

P 87–152

Manufacturer. Confidential.

Chemical. (G) Salt of heterocyclicalkenyl, substituted (phenyl pyrazole).

Use/Production. (G) Contained use in an article. Prod. range: 5,500. kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and Processing: Dermal and inhalation, a total of 35 workers, up to 4 hrs/day, up to 13 days/yr.

Environmental Release/Disposal. No release. Disposal by biological treatment system and incineration.

P 87–153

Manufacturer. Confidential.

Chemical. (G) Salt of substituted (phenylpyrazole).

Use/Production. (G) Chemical intermediate. Prod. range: 8,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Use: Inhalation, a total of 3 workers, up to .2 hr/days, up to 18 days/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

P 87–154

Manufacturer. Confidential.

Chemical. (G) Substituted alkenyl substituted benzoxazole salt.

Use/Production. (G) Contained use in an article. Prod. range: 2,500 kg/yr.

Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: 2,000 mg/kg; Irritation: Skin–Slight, Eye–Slight; Sensitization: low.

Exposure. Manufacture and processing: inhalation, a total of 37 workers, up to 2 hrs/day, up to 15 days/yr.

Environmental Release/Disposal. 0 to 3 kg/batch released to water. Disposal by biological treatment system and incineration.

P 87–155

Manufacturer. Confidential.

Chemical. (G) Butyl methacrylate copolymer.

Use/Production. (G) Industrially used coating, having an open use. Prod. range: 11,000 to 110,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 55 wokers, up to 8 hrs/day, up to 20 days/yr.

Environmental Release/Disposal. 6 to 130 kg/batch released to land. Disposal by incineration and approved landfill.

P 87–156

Manufacturer. Celanese Specialty Operations.

Chemical. (G) Poly (p-vinylphenol).

Use/Production. (G) Polymeric blends, engineering resins and electronics. Prod. range: Confidential.

Toxicity Data. No data on PMN substance submitted.

Exposure. Manufacture: Dermal, a total of 8 workers, up to 6 hrs/day, up to 75 days/yr.

Environmental Release/Disposal. 2 to 10 kg/yr released. Disposal by Publicly Owned Treatment Work (POTW).

P 87–157

Manufacturer. Celanese Specialty Operations.

Chemical. (S) 1-[4-(Acetyloxy)phenyl]ethanone.

Use/Production. (S) Site limited and industrial intermediate for synthesis of other chemicals. Prod. range: Confidential.

Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Mild to moderate; Ames test: Mutagenic.

Exposure. Processing: Dermal, a total of 11 workers, up to 4 hrs/day, up to 14 days/yr.

Environmental Release/Disposal. No release.

P 87–158

Manufacturer. Celanese Specialty Operations.

Chemical. (S) 4-Ethenylphenol acetate.

Use/Production. (S) Site limited and industrial for p-acetoxystyrene homopolymer and copolymer preparation and synthesis of other chemicals. Prod. range: Confidential.

Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Moderate to severe, Eye—Severe.

Exposure. Processing: Dermal, a total of 11 workers, up to 4 hrs/day, up to 14 days/yr.

Environmental Release/Disposal. 2 to 5 kg/yr released.

P 87–159

Manufacturer. Celanese Specialty Operations.

Chemical. (S) 1–[4–(Acetyloxy) phenyl]ethanol.

Use/Production. (S) Site limited and industrial intermediate for synthesis of other chemicals. Prod. range: Confidential.

Toxicity Data. Acute oral: 5,000 mg/kg. Irritation: Skin-Moderate to severe, Eye—Severe; Ames test: Negative.

Exposure. Processing: Dermal, a total of 12 workers, up to 6 hrs/day, up to 14 days/yr.

Environmental Release/Disposal. Minimal release. Disposal at approved disposal facilities.

P 87–160

Manufacturer. Celanese Specialty Operations.

Chemical. (S) Homopolymer of 4–ethenylphenol acetate.

Use/Production. (S) Site limited and industrial production of polyvinyl phenol homopolymer and blends with other polymers. Prod. range: Confidential.

Toxicity Data. Acute oral: 5,000 mg/kg; Acute dermal: 5,000 mg/kg; Irritation: Skin-Non-irritant, Eye-Non-irritant.

Exposure. Manufacture: Dermal, a total of 10 workers, up to to 6 hrs/day, up to 75 days/yr.

Environmental Release/Disposal. Less than 5 to 10 kg/yr released to water. Disposal by POTW.

P 87-161

Manufacturer. Confidential.
Chemical. (G) Disubstituted quinoline hydrochloride.
Use/Production. (S) Site limited agricultural chemical intermediate. Prod. range: Confidential.
Toxicity Data. Ames test: Non-mutagenic.
Exposure. Manufacture and use: Dermal and inhalation, a total of 73 workers, up to 15 hrs/day, up to 170 days/yr.
Environmental Release/Disposal. Release to air. Disposal by incineration.

P 87-162

Importer. Heubach, Incorporated.
Chemical. (G) Mixed metal oxide.
Use/Import. (G) Anti-corrosive pigment. Import. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 87-163

Manufacturer. Confidential.
Chemical. (G) Amine phosphate salt.
Use/Production. (S) Site-limited and industrial corrosion inhibitor. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: Dermal, a total 6 workers, up to 5 hrs/day, up to 43 days/yr.
Environmental Release/Disposal. Less than 1 kg released to water. Disposal by POTW.

P 87-164

Manufacturer. Confidential.
Chemical. (G) Fatty acid esters.
Use/Production. (S) Site-limited and industrial lubricant base. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: Dermal, a total of 6 workers, up to 5 hrs/day, up to 9 days/yr.
Environmental Release/Disposal. 5 kg released to water. Disposal by POTW.

P 87-165

Manufacturer. Confidential.
Chemical. (G) Fatty acid ester.
Use/Production. (S) Site-limited and industrial lubricant base. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacuture and processing: Dermal, a total 6 workers, up to 5 hrs/day, up to 45 days/yr.
Environmental Release/Disposal. 5 kg released to water. Disposal by POTW.

P 87-166

Manufacturer. Confidential.
Chemical. (G) Fatty acid esters.
Use/Production. (S) Site-limited and industrial lubricant base. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: Dermal, a total of 6 workers, up to 5 hrs/day, up to 23 days/yr.
Environmental Release/Disposal. 5 kg released to water. Disposal by POTW.

P 87-167

Manufacturer. Confidential.
Chemical. (G) Fatty acid ester.
Use/Production. (S) Site-limited and industrial lubricant base. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: Dermal, a total of 6 workers, up to 5 hrs/day, up to 30 days/yr.
Environmental Release/Disposal. 5 kg released to water. Disposal to POTW.

P 87-168

Manufacturer. Ethyl Corporation.
Chemical. (S) Alkenes, C_{20-24}, ethylene polymerization by-product.
Use/Production. (G) Intermediate for preparation of alkylated aromatic hydrocarbons from aromatic hydrocarbons, intermediate for reaction with maleic anhydride to produce alkenyl succinic anhydride and intermediate for general synthetic usage. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 87-169

Manufacturer. Confidential.
Chemical. (G) Carboxylic acid of a tertiary amine.
Use/Production. (G) Component of consumer products. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Acute dermal: > 2.0 ml/kg; Irritation: Skin—Non-irritant; Skin Sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 87-170

Manufacturer. Confidential.
Chemical. (G) Carboxylic acid of a tertiary amine.
Use/Production. (G) Component of consumer products. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Acute dermal: >2.0 ml/kg; Irritation: Skin—Non-irritant; Skin Sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 87-171

Manufacturer. Confidential.
Chemical. (G) Carboxylic acid of a tertiary amine.
Use/Production. (G) Component of consumer products. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Acute dermal: >2.0 ml/kg; Irritation: Skin—Non-irritant; Skin Sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 87-172

Manufacturer. Confidential.
Chemical. (S) Carboxylic acid of a tertiary amine.
Use/Production. (G) Component of consumer products. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Acute dermal: > 2.0 ml/kg; Irritation: Skin—Non-irritant; Skin Sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 87-173

Manufacturer. Confidential.
Chemical. (S) Carboxylic acid of a tertiary amine.
Use/Production. (G) Component of consumer products. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Acute dermal: > 2.0 ml/kg; Irritation: Skin—Non-irritant; Skin Sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 87-174

Importer. Confidential.
Chemical. (S) Phenyl methyl silicone resin.
Use/Import. (S) Industrial commercial and consumer release coating for metal surfaces. Import. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: Dermal, a total of 4 workers, up to 2 hrs/day.
Environmental Release/Disposal. 1.0 kg samples. Disposal by RCRA.

P 87-175

Importer. Antiphon, Incorporated.
Chemical. (G) Thermoplastic.
Use/Import. (G) Thermoplastic blend in solution. Import. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

P 87-176

Importer. Confidential.
Chemical. (G) Carboxy derivative of xanthen.
Use/Import. (S) Industrial colorant. Import. range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg; Irritation: Skin—Slight, Eye—Moderate.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 87-177

Manufacturer. Confidential.
Chemical. (S) Hexanedioic acid, compound with 1-octadecanamine (1:2).
Use/Production. (G) Buffering agent. Prod. range: 10,000 to 30,000 kg/yr.
Toxicity Data. Acute oral: > 5 g/kg; Irritation: Skin—Non-irritant, Eye—Severe.
Exposure. Manufacturer and use: Dermal.
Environmental Release/Disposal. .1 kg/batch released to water. Disposal by navigable waterway.

P 87-178

Manufacturer. Confidential.
Chemical. (G) Alkenylamide polymer with methylheteromonoacrylic alkene.
Use/Production. (S) Industrial paper polymer. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant, Amest test: Non-mutagenic.
Exposure. Manufacturer: Dermal, a total 45 workers, up to 8 hrs/day, up to 100 days/yr.
Environmental Release/Disposal. Less than 0.2 kg released to air with 5.5 kg to water. Disposal by POTW.

P 87-179

Manufacturer. Confidential.
Chemical. (G) Addition product of a primary amine and aliphatic isocyanate.
Use/Production. (G) Finishing agent. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 87-180

Manufacturer. Confidential.
Chemical. (G) Substituted urea carbomate.
Use/Production. (G) Coating with a dispersive use. Prod. range: 15,000 to 21,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: Dermal, a total of 15 workers, up to 4 hrs/day, up to 14 days/yr.
Environmental Release/Disposal. 3 to 22 kg/batch released to land. Disposal by incineration and landfill.

P 87-181

Manufacturer. Confidential.
Chemical. (G) Polyamide resin.
Use/Production. (S) Printing ink component, laminating adhesive. Prod. range: Confidential.
Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: 2 g/kg; Irritation: Skin—Irritant, Eye—Non-irritant.
Exposure. Manufacture: dermal, a total of 2 workers, up to 2 hrs/day.
Environmental Release/Disposal. Release to sanitary landfill. Disposal by sanitary landfill.

P 87-1182

Manufacturer. Confidential.
Chemical. (G) Polyamide resin.
Use/Production. (S) Water-based ink over-print varnish (coating), printing ink component, laminating adhesive. Prod. range: Confidential.
Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: 2 g/kg; Irritation: Skin—Irritant, Eye—Non-irritant.
Exposure. Manufacture: Dermal, a total of 2 workers, up to 2 hrs/day.
Environmental Release/Disposal. Release to sanitary landfill. Disposal by sanitary landfill.

P 87-183

Importer. Confidential.
Chemical. (G) Methylheteromonocyclicalkene.
Use/Import. (S) Industrial chemical intermediate. Import. range: Confidential.
Toxicity Data. Acute oral: 825 mg/kg; Irritation: Skin—Irritant, Eye—Irritant; Ames test: Non-mutagenic.
Exposure. Manufacture: Dermal, a total of 20 workers, up to 8 hrs/day, up to 100 days/yr.
Environmental Release/Disposal. Less than 1 kg/batch released to air and water. Disposal by POTW.

P 87-184

Manufacturer. Confidential.
Chemical. (G) Modified dimer acids triethylenetetramine polyamide resin.
Use/Production. (S) Industrial curing agent for epoxy resins used in adhesives. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: inhalation, a total of 6 workers.
Environmental Release/Disposal. Less than 2 kg/batch released to land with less than .1 kg/batch to water. Disposal by sanitary landfill.

P 87-185

Manufacturer. Confidential.
Chemical. (G) Substituted indolyl carbonyl heteroarylcarboxylic acid.
Use/Production. (G) Site-limited intermediate consumed in the production of a commercial product. Prod. range: Confidential.
Toxicity Data. Acute oral: >5.0 g/kg; Ames test: Non-mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

P 87-186

Manufacturer. Confidential.
Chemical. (G) Substituted phenyl indolyl heteroarylone.
Use/Production. (G) Minor color-forming component in paper coatings. Prod. range: Confidential.
Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Non-mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

P 87-187

Importer. NL Industries, Incorporated.
Chemical. (G) Polymide resin.
Use/Import. (G) A polymide resin to be used in an open, non-dispersive manner. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 87-188

Importer. Confidential.
Chemical. (G) Hydroxy functional styrenated acrylate methacrylate.
Use/Import. (G) Industrially used coating having a dispersive use. Import range: 1,500 to 3,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 87-189

Manufacturer. Confidential.
Chemical. (G) Acrylic methacrylic polymer with styrene.
Use/Production. (G) Industrial coating. Prod. range: 2,500 to 11,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: Dermal, a total of 12 workers, up to 8 hrs/day, up to 28 days/yr.
Environmental Release/Disposal. 4 to 25 kg/batch released to land. Disposal by incineration and landfill.

P 87-190

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (G) Resin converted to varnish. Prod. range: Confidential.

Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 87-191

Importer. Hitachi Chemical Company America, Ltd.
Chemical. (G) Polyesterimide polymer A.
Use/Production. (S) Insulation of magnet wire. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: Dermal, a total of 10 workers, up to 8 hrs/day.
Environmental Release/Disposal. No release. Disposal by incineration.

P 87-192

Importer. Hitachi Chemical America, Ltd.
Chemical. (G) Polyester polymer.
Use/Import. (S) Insulation of magnet wire. Import. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: Dermal, a total of 10 workers, up to 8 hrs/day.
Environmental Release/Disposal. No release. Disposal by incineration.

P 87-193

Manufacturer. The Dow Chemical Company.
Chemical. (G) MDI polyether prepolymer.
Use/Production. (S) Industrial and commercial polyurethane coatings and elastomers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: Dermal.
Environmental Release/Disposal. Release to land. Disposal by approved landfill and navigation waterway.

Dated: November 12, 1986.

V. Paul Fuschini,

Acting Division Director, Information Management Division.

[FR Doc. 86-26079 Filed 11-18-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180707; FRL-3114-7]

Annual Report on Crisis Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice summarizes the number of crisis exemptions declared and the number of crisis exemptions revoked during the fiscal year 1986. State and Federal agencies issued 33 crisis exemptions authorizing unregistered pesticide uses in accordance with the regulations at 40 CFR 166.40 pursuant to section 18 of FIFRA. During this same time period, EPA revoked the crisis provision for use of one pesticide. This annual report is required under 40 CFR 166.49.

FOR FURTHER INFORMATION CONTACT:

Donald R. Stubbs, Registration Division (TS-767C), Office of Pesticide Environmental Protection Agency, 410 M St. SW., Washington, DC 20460.
Office location and telephone number: Rm. 716, Cyrstal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: The regulations pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act require the EPA to issue annually a notice for publication in the **Federal Register** which summarizes the number of crisis exemptions declared and the number of crisis exemptions revoked.

Subpart C of 40 CFR Part 166 sets forth the regulations dealing with crisis exemptions. This Subpart allows the head of a Federal or State agency to issue a crisis exemption in situations involving an unpredictable emergency situation when: (1) An emergency condition exists and (2) the time element with respect to the application of the pesticide is critical, and there is not sufficient time either to request a specific, quarantine, or public health exemption or, if such a request has been submitted, for EPA to complete review of the request. This Subpart also provides for EPA review of crisis exemptions and revocation of individual crisis exemptions or the authority of a State and Federal agency to utilize the crisis provisions.

During the fiscal year 1986 (October 1, 1985 through September 30, 1986), a total of 33 crisis exemptions were declared by State and Federal agencies. A breakdown of the crisis declarations by State/Federal agencies follows.

State/Federal agency	No. of crisis exemptions	Pesticide	Site
Alabama	1	Fluazifop-butyl	Peanuts.
Arkansas	1	Sodium chlorate.	Wheat.
California	5	Mevinphos	Pumpkins.
		Aluminum phosphide.	Wild rice.
		Metalaxyl	Asparagus.
		Parathion	Wild rice.
		Malathion	Persimmons.
Florida	2	Fluazifop-butyl	Peanuts.
		Metalaxyl	Head lettuce.
Georgia	2	Sodium chlorate.	Southern peas.
		Fluazifop-butyl	Peanuts.
Louisiana	4	Sethoxydim	Sweet potatoes.
		Bromoxynil	Rice.
		Propargite	Vetch.
		Fenvalerate	Cotton.
Mississippi	1	Sodium Chlorate.	Wheat.
Montana	1	Cypermethrin	Seed alfalfa.
North Carolina	3	Fluazifop-butyl	Peanuts.
		Sethoxydim	Peanuts.
		Metalaxyl	Peppers.
Nebraska	1	Sethoxydim	Potatoes.
Oklahoma	3	Methidathion	Corn.
		Monocrotophos.	Corn.
		Sodium chlorate.	Wheat.
Texas	5	Permethrin	Greens.
		Fenvalerate	Grain sorghum.
		Fluazifop-butyl	Peanuts.
		Cypermethrin	Onions.
		Sodium chlorate.	Wheat.
Virginia	2	Metalaxyl	Broccoli.
		Sethoxydim	Peanuts.
Wisconsin	1	Aliette	Ginseng.
USDA	1	Naled	Non-food.

During the 1986 fiscal year EPA revoked the crisis provision for use of methidathion on corn due to endangered species concerns. This crisis exemption had been authorized by Oklahoma.

Authority: 7 U.S.C. 136.

Dated: November 7, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 86-26077 Filed 11-18-86; 8:45 am]

BILLING CODE 6560-50-M

SAB-FRL-3115-6

Science Advisory Board: Clean Air Scientific Advisory Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given of a meeting of the Materials Damage Review Subcommittee of the Clean Air Scientific Advisory Committee (CASAC) of the Science Advisory Board. The meeting will be held on December 4, 1986, starting at 9:30 am and ending at approximately 4:30 pm. The meeting will be held in the U.S. EPA, Conference Room 4, South Conference Center, 401 M Street, SW., Washington, DC 20460.

The purpose of this meeting is to review and discuss a March 1986 final report prepared by Mathtech, entitled, "A Damage Function Assessment of Building Materials: The Impact of Acid Deposition". The Mathtech report together with several supporting documents will be reviewed to determine whether the methods suggested are credible and whether the data are appropriate for estimating materials damage benefits from acid deposition in a 17 state area of the U.S. These documents may be used by the Agency's Office of Air Quality Planning and Standards (OAQPS) in preparing a Regulatory Impact Analysis (RIA) on the National Ambient Air Quality Standards

for Sulfur Oxides. Availability of the draft RIA, and the opportunity for public comment, will be announced at a later date.

For further information and copies of the documents to be reviewed, please contact Mr. William O'Neil, Economic Analysis Branch, Office of Policy, Planning and Evaluation (PM-221), U.S. EPA, 401 M Street, SW., Washington, DC 20460, telephone: 202-382-5610, or FTS 382-5610.

The meeting is open to the public. Any member of the public wishing to obtain information concerning the meeting should contact Mr. Robert Flaak, Executive Secretary, Clean Air Scientific Advisory Committee, Science Advisory Board (A-101F), U.S. EPA, 401 M Street, SW., Washington, DC 20460, telephone: 202-382-2552, or FTS 382-2552. There will be an opportunity for brief oral statements (5-10 minutes) by members of the public who wish to comment on the scientific basis for the documents being reviewed. Written comments in any form will be accepted and can be sent to Mr. Flaak at the above address. Persons interested in making statements before the Committee must contact Mr. Flaak at the above address no later than December 1, 1986 in order to be assured of space on the agenda.

Dated: November 14, 1986.

Kathleen Conway,

Acting Director, Science Advisory Board.

[FR Doc. 86-26174 Filed 11-18-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-780-DR]

Amendment to Notice of a Major-Disaster Declaration; Kansas

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Kansas (FEMA-780-DR), dated October 22, 1986, and related determination.

DATED: November 13, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Program, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

The notice of a major disaster for the State of Kansas, dated October 22, 1986, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in this declaration of October 22, 1986:

Elk County for Public Assistance.

(Catalog for Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-26063 Filed 11-18-86; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-779-DR]

Amendment to Notice of a Major-Disaster Declaration; Missouri

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Missouri (FEMA-779-DR), dated October 14, 1986, and related determinations.

DATE: November 12, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

The notice of a major disaster for the State of Missouri, dated October 14, 1986, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in this declaration of October 14, 1986:

St. Louis County as an adjacent area for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83-516, Disaster Assistance.)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-26064 Filed 11-18-86; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-004140-003.

Title: Oakland Terminal Agreement.

Parties:

City of Oakland (Port)

Marine Terminals Corporation (MTC)

Synopsis: The proposed amendment would permit MTC to handle combination steel and container vessels at the Port's Seventh Street Public Container Terminal because of physical limitations at MTC's assigned premises at the Port's Ninth Avenue Terminal facility. It would also extend the compensation factors previously agreed to through June 30, 1987.

Agreement No.: 224-011027.

Title: Puerto Rico Maritime Shipping Authority Terminal Equipment Lease Agreement.

Parties:

Puerto Rico Maritime Shipping Authority (PRMSA)

Sea-Land Service, Inc. (Sea-Land)

Synopsis: The proposed agreement between PRMSA and Sea-Land provides for lease of terminal equipment at San Juan, Puerto Rico. The agreement would enable the parties to lease to each other certain identified items of terminal equipment, for the lessee's exclusive use at San Juan, Puerto Rico to provide terminal services for cargo moving in both the domestic and foreign commerce fo the United States. The term of the agreement is for three years, terminable thereafter upon six months written notice by either party.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: November 13, 1986.

[FR Doc. 86-26035 Filed 11-18-86; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 124–011028.

Title: Ponce, Puerto Rico Terminal Agreement.

Junta Administrative de los Muelles Municipales de Ponce (Port)

Ponce Maritime Services, Inc. (PMS)

Synopsis: The proposed agreement would permit the Port to lease approximately 6.5 acres of improved land to PMS for use as a parking area for trailer vans.

Filing Party: Antonio Zapater Cajigas, 50 Isabel Street, Post Office Box 1350, Ponce, Puerto Rico 00733.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: November 14, 1986.

[FR Doc. 86–26094 Filed 11–18–86; 8:45am]

BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 221–010646–001.

Title: Oakland Terminal Agreement.

Parties:

City of Oakland (Port)

Hyundai Merchant Marine Co., Ltd. (Hyundai)

Synopsis: The proposed amendment would permit an original signator of the agreement (Korea Marine Transport Co., Ltd.) to assign its rights and responsibilities under the agreement to Hyundai and would permit the Port to transfer Hyundai's operations to another of the Port's public container terminals. It would also make other changes to conform the agreement to Agreement No. 224–010727 between the Port and Hyundai concerning Hyundai's use of the Port's Seventh Street Public Container Terminal.

Agreement No.: 224–010727–001.

Title: Oakland Terminal Agreement.

Parties:

City of Oakland (Port)

Hyundai Merchant Marine Co., Ltd. (Hyundai)

Synopsis: The proposed amendment would permit Hyundai to use an additional Port terminal for its vessel and cargo activities and would delete provisions regarding Hyundai's right to terminate the agreement on January 31, 1988.

Agreement No.: 224–010954–001.

Title: Savannah Terminal Agreement.

Parties:

Georgia Ports Authority

Japan Line, Ltd.

Mitsui O.S.K. Lines, Ltd.

Nippon Yusen Kaisha

Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment reflects the deletion of Kawasaki Kisen Kaisha Ltd. As a party to the agreement and would add clauses providing for preferential berthing and crane usage.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: November 14, 1986.

[FR Doc. 86–26095 Filed 11–18–86; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Banc One Corp. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resouces, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing of this questions must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically and questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 5, 1986.

A. **Federal Reserve Bank of Clevaland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banc One Corporation*, Columbus, Ohio; to engage *de novo* through its subsidiary, Banc One Investment Management Corporation, Columbus, Ohio, in providing investment advisory services pursuant to § 225.25(b)(4) of the Board's Regulation Y.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mercantile Bancorporation, Inc.*, St. Louis, Missouri; to engage *de novo* through its subsidiary , Gateway West Investment Management, Inc., St. Louis, Missouri, in acting as an investment advisor providing investment or financial advice pursuant to § 225.25(b)(4) of the Board's Regulation Y.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *BellCorp, Inc.*, Manhattan, Kansas; to engage *den novo* in direct lending pursuant to § 225.25 (b)(1) of the Board's Regulation Y.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *AmeriTex Bancshares Corporation*, Bedford, Texas; to engage *de novo* through its subsidiary, AmeriTex Financial Services, Inc., Bedford, Texas, in providing management consulting services to depository institutions pursuant to § 225.25 (b)(11) of the Board's Regulation Y.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *National Bancorp of Alaska, Inc.*, Anchorage, Alaska; to engage *de novo* through its subsidiary, NBA Mortgage Company, Anchorage, Alaska, in making, acquiring, servicing, and selling mortgage loans, and acting as an underwriter for credit life insurance and credit accident and health insurance through NBA Mortgage Corporation, pursuant to § 225.25 (b) (1) and (8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 13, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-26041 Filed 11-18-86; 8:45 am]

BILLING CODE 6210-01-M

Banponce Corp. et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than December 5, 1986.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Banponce Corporation*, Hato Rey, Puerto Rico; to acquire Thrift Investment Corporation, Fords, New Jersey, and thereby engage in sales financing to consumers for the retail purchase of use automobiles; direct auto loans to consumers pursuant to § 225.25(b)(1); automobile leasing financing pursuant to § 225.25(b)(5); credit life, accident and health insurance; and automobile property damage insurance in relation to the extentions of credit pursuant to § 225.25 (b)(8)(i) and (b)(8)(ii) of the Board's Regulation Y. These activities will be conducted in the State of New Jersey.

2. *U.S. Trust Corporation*, New York, New York; to acquire Summit Management Company, Inc., Los Angeles, California, and thereby engage in providing portfolio investment advice and management to individual, corporate and institutional investors pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 13, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-26042 Filed 11-18-86; 8:45 am]

BILLING CODE 6210-01-M

Commonwealth Bancshares Corp.; Proposed Acquisition of Commonwealth Employer Services, Inc.

Commonwealth Bancshares Corporation, Williamsport, Pennsylvania, has applied, pursuant to section 4(c)(8) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to acquire Commonwealth Employer Services, Inc., Williamsport, Pennsylvania, and thereby engage in: (a) Designing employee group health benefit packages, including assisting clients in the analyses of existing employee benefits, developing investment and funding strategies, and providing clients with statistical reports of their plans' performance; (b) providing assistance in implementing plans, including assistance in the preparation of plan documents, development of a program for investing clients' funds, and implementation of plan administration systems; (c) providing administrative services with respect to plans, including record-keeping services and preparing reports on the plan for the clients and for various regulatory agencies; (d) offering clients assistance in developing a communication program to inform employees of the benefits of the plan. These services would be provided from an office in Williamsport, Pennsylvania, to customers in Pennsylvania.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has determined that these activities are closely related to banking. *Norstar Bancorp, Inc.*, 72 Federal Reserve Bulletin 729 (August 19, 1986).

Interested persons may express their views on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether consummation of the acquisition as a whole can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased on unfair competition, conflicts of interests or unsound banking practices." Any request for a hearing on these questions must be accompanied by a

statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Philadelphia.

Comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than December 18, 1986.

Board of Governors of the Federal Reserve System, November 13, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-26043 Filed 11-18-86; 8:45 am]

BILLING CODE 6210-01-M

Floyd C. Edward; Acquisition of Banks or Bank Holding Companies

The notificant listed in this notice has applied for the Board's approval under the Change in Bank Control Act (12 U.S.C. 1817(j) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the application are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors.

Comments regarding these applications must be received not later than December 4, 1986.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *C. Edward Floyd, M.D.*, Florence, South Carolina; to acquire 10.1 percent of Lake City Bancshares, Inc., Lake City, South Carolina, and thereby indirectly acquire Lake City State Bank, Lake City, South Carolina.

Board of Governors of the Federal Reserve System, November 13, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-26044 Filed 11-18-86; 8:45 am]

BILLING CODE 6210-01-M

UNB 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 December 5, 1986.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *UNB Corp.*, Mount Carmel, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The Union National Bank of Mount Carmel, Mount Carmel, Pennsylvania.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Oak Brook Bancshares, Inc.*, Oak Brook, Illinois; to acquire 100 percent of the voting shares of FNB Bancorp, Inc., Chicago Heights, Illinois, and thereby indirectly acquire First National Bank of Chicago Heights, Chicago Heights, Illinois.

2. *Hasten Bancorp*, Indianapolis, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of H & H Financial Corporation, Kokomo, Indiana, and thereby indirectly acquire 91.32 percent of First National Bank, Kokomo, Indiana; 100 percent of the voting shares of First National Financial Corporation of Martinsville, Martinsville, Indiana, and thereby indirectly acquire 88.67 percent of First National Bank of Martinsville, Martinsville, Indiana; 100 percent of First Bank and Trust Company of Clay County, Brazil, Indiana; 99.67 percent of the voting shares of Sullivan State Bank, Sullivan, Indiana; and 97.9 percent of the voting shares of Peoples State Bank, Farmersburg, Indiana; 100 percent of the voting shares of Farmers Banc, Inc., Tipton, Indiana, and thereby indirectly acquire 100 percent of the voting shares of Farmers Loan and Trust Company, Tipton, Indiana. Farmers Loan and Trust Company also engages in general insurance activities.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Parkin Bancorp, Inc.*, Parkin, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Parkin, Arkansas.

2. *State First Financial Corporation*, Texarkana, Arkansas; to acquire 100 percent of the voting shares of American National Bank, Texarkana, Texas.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Cornerstone Bancshares, Inc.*, Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Cornerstone Bank, N.A., Dallas, Texas. Comments on this application must be received by December 8, 1986.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Hawaii National Bancshares, Inc.*, Honolulu, Hawaii; to become a bank holding company by acquiring 100 percent of the voting shares of Hawaii National Bank, Honolulu, Hawaii. Comments on this application must be received by December 8, 1986.

Board of Governors of the Federal Reserve System, November 13, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-26045 Filed 11-18-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Consolidation of Regional Staff of the National Institute for Occupational Safety and Health

This notice advises the public of action taken by the National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, to consolidate NIOSH staff in the PHS regional offices. The NIOSH regional positions are being consolidated into the three Regional Offices in Atlanta, Boston, and Denver. This action considered the availability of NIOSH staff in Morgantown, West Virginia, and Cincinnati, Ohio, to perform health hazard evaluations and the capabilities of States to meet some of the occupational safety and health needs. This action will result in more efficient use of staff in the accomplishment of the NIOSH mission.

Dated: November 10, 1985.

Wilford J. Forbush,

Director, Office of Management, PHS.

[FR Doc. 86-26093 Filed 11-18-86; 8:45 am]

BILLING CODE 4160-19-M

Orphan Products Board; Public Meeting

AGENCY: Office of the Assistant Secretary for Health.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health are announcing that a public meeting of the Orphan Products Board will be held on December 2, 1986, in Washington, DC, to receive information and views from interested persons on the issue of orphan products development. The meeting will be chaired by Dr. Robert E. Windom, Assistant Secretary for Health and Chairman of the Orphan Products Board (Board). The meeting will begin at 9 a.m., in Rm. 800, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC 20201.

ADDRESS: Written requests to participate should be sent to Neil Abel, Executive Secretary, Orphan Products Board (HF-35), Department of Health and Human Services, Rm. 12A-40, 5600 Fishers Lane, Rockville, MD 20857, and should be received by November 21, 1986.

FOR FURTHER INFORMATION CONTACT: Neil Abel, Executive Secretary, Orphan Products Board (HF-35), Department of Health and Human Services, 5600 Fishers Lane, Rockville, MD 20857 301-443-4718.

SUPPLEMENTARY INFORMATION: An orphan drug is a drug for the treatment of a rare disease or condition which either (1) has a prevalence in the United States of under 200,000 affected persons or (2) has a higher prevalence and for which there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. The Orphan Drug Act (the act) Pub. L. 97-414 enacted on January 4, 1983, and amended by Pub. L. 99-91, established a number of incentives to encourage the development and production of orphan drugs.

The act also established an Orphan Products Board to promote the development of drugs and devices for rare diseases or conditions and to assure appropriate coordination among all interested Federal agencies, manufacturers, and organizations representing patients with rare diseases.

The Orphan Products Board is chaired by the Assistant Secretary for Health. The Board is composed of representatives from the Department of Health and Human Services (DHHS), the Veterans Administration (VA), the National Institute of Handicapped Research (NIHR), and the Department of Defense (DOD). Within DHHS, representatives from the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), the Centers for Disease Control (CDC), the Food and Drug Administration (FDA), the Health Care Financing Administration (HCFA), the National Institutes of Health (NIH), and the Office of the Assistant Secretary for Health (OASH) serve on the Board.

This public meeting will have three purposes:

1. An update will be provided on the activities of the Orphan Products Board, and members of the Board from ADAMHA, CDC, FDA, and NIH will discuss their agency's recent orphan product development activities.

2. A ceremony will be held to honor the recipients of the Public Health Service Award for Exceptional Achievement in Orphan Products Development. This award recognizes the efforts of individuals who have contributed to the development of drugs for rare diseases or conditions. The awards will be presented by the Assistant Secretary for Health.

3. An opportunity will be given by the Board for the public to make presentations on issues involving the development and availability of orphan products; this opportunity is in keeping with the mandate of the DHHS to facilitate the research, development, and approval of orphan products, and to coordinate Government activities with the private sector.

Those persons wishing to make a presentation at the meeting on the third topic should submit a written request for a time slot to the Executive Secretary of the Orphan Products Board. The request for participation should be submitted before November 21, 1986, and should include:

1. Name, address, and telephone number of the person wanting to make a presentation;

2. Affiliation, if any;

3. A summary of the presentation; and

4. The approximate amount of time required for the presentation (no more than 10 minutes, unless more time can be justified).

Individuals and organizations with common interests or proposals are urged to coordinate or consolidate their presentations. Joint presentations may be required of persons or organizations with a common interest. The time available will be allocated among the individuals who request an opportunity for a presentation. Formal written statements or extensions of remarks (preferably five copies) may be presented to the chairman on the day of the meeting for inclusion in the record of the meeting. At the discretion of the chairman, and as time permits, any person in attendance may be heard. This time will, most likely, be at the end of the scheduled session.

For those unable to attend the meeting, comments may be sent to the Executive Secretary of the Orphan Products Board at the address listed above.

Dated: November 12, 1986.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 86-26092 Filed 11-18-86; 8:45 am]

BILLING CODE 4160-19-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On September 25, 1986 a notice was published in the **Federal Register** (51 (vol. 186) FR 34157) that an application had been filed with the Fish and Wildlife Service by our Alaskan Office of Fish and Wildlife Research (PRT-690038) for a permit to continue a

program of polar bear research with certain minor amendments.

Notice is hereby given that on November 10, 1986, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 (16 U.S.C. 1539), the Fish and Wildlife Service issued a permit subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 605, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: November 13, 1986.

Earl B. Baysinger,

Chief, Federal Wildlife Permit Office.

[FR Doc. 86–26099 Filed 11–18–86; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395–7313, with copies to Norman J. Hess; Acting Chief, Rules, Orders, and Standards Branch; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Prospecting for Minerals Other than Oil, Gas, and Sulphur in the Outer Continental Shelf, 30 CFR Part 257

Abstract: Respondents provide certain information to the Minerals Management Service (MMS) when applying for and conducting work under a prelease prospecting permit. The MMS uses this information to evaluate permit applications and prospecting plans and to monitor activities conducted pursuant to the permits.

Bureau Form Number: None

Frequency: On occasion

Description of Respondents: Federal OCS permittees

Annual Responses: 75

Annual Burden Hours: 829

Bureau Clearance Officer: Dorothy Christopher (703) 435–6213

Dated: November 3, 1986.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 86–26030 Filed 11–18–86; 8:45 am]

BILLING CODE 4310–MR–M

Central and Field Organization

AGENCY: Minerals Management Service, Interior.

ACTION: Notice.

Pursuant to 5 U.S.C.(a)(1)(A), notice is hereby given that the following changes have been made to the Minerals Management Service section of the Department of the Interior, Central and Field Organization, published in the **Federal Register** on December 17, 1985 (50 FR 51455), at page 51462, columns 2 and 3.

The headquarters location of the Royalty Management Program has been changed to Lakewood, Colorado, and the address and telephone number is as follows:

Royalty Management Program, Building 85, Denver Federal Center, P.O. Box 25165, Lakewood, CO 80225, Phone, 303–231–3386.

In addition, the following address and telephone number changes have occurred:

Gulf of Mexico Region, 1420 South Clearview Parkway, New Orleans, LA 70123–2394, Phone, 504–736–0557.

Southern Administrative Service Center, 1420 South Clearview Parkway, New Orleans, LA 70123–2394, Phone, 504–735–2616.

FOR FURTHER INFORMATION CONTACT: Faye Quesenberry at 703–436–6179.

Dated: November 10, 1986.

Thomas Gernhofer,

Assistant Director for Administration.

[FR Doc. 86–26031 Filed 11–18–86; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Research Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on December 15 and 16, 1986 at the Pan American Health Organization Building, 525—23rd Street NW., Washington, DC, Conference Room 'C'. The Committee will discuss research aspects of the Health and Population Programs in the Science and Technology Bureau, and research policy issues in the Food-For-Peace Program.

The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. The meeting is open to the public. Any interested persons may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee and to the extent the time available for the meeting permits. Dr. Handy Williamson, Jr., Acting Director, Office of Research and University Relations, Bureau for Science and Technology, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information contact Dr. Williamson, 1601 N. Kent Street, Arlington, Virginia 22209 or call area code (703) 235–8929.

Dated: November 7, 1986.

Handy Williamson, Jr.,

A.I.D. Representative, Research Advisory Committee.

[FR Doc. 86–26059 Filed 11–18–86; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

Agency Forms Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of Information Collection

The proposed information collection is for use by the Commission in connection with investigation No. 332–97, Report to the President on the domestic consumption of brooms of broomcorn, as required by Executive Order 11377.

Summary of Proposals

(1) Number of forms submitted: One.

(2) Title of forms: Brooms and Whiskbrooms Wholly or in Part of Broom Corn and Certain Other Brooms—Producers' Questionnaire.

(3) Type of Request: Extension.

(4) Frequency of use: Annual.

(5) Description of respondents: U.S. broom producers.

(6) Estimated number of respondents: 200.

(7) Estimated total number of hours to complete the forms: 400.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment

Copies of the proposed forms and supporting documents may be obtained from Rhett Leverett (USITC tel. no. 202–724–1725). Comments about the proposal should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Attention: Francine Picoult, Desk Officer for U.S. International Trade Commission. Any comments should be specific, indicating which part of the questionnaire or study plan is objectionable, describing the problem in detail, and including specific suggested revisions or language changes.

Submission of Comments

Comments should be submitted to OMB within two weeks of the date this notice appears in the **Federal Register**. If you are unable to submit them promptly you should advise OMB within the two week period of your intent to comment on the proposal. Ms. Picoult's telephone number is 202–395–7231. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, NW., Washington, DC 20436).

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724–0002.

By order of the Commission.

Issued: November 14, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–26119 Filed 11–18–86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–251]

Certain Electronic Chromatogram Analyzers and Components; Change of the Commission Investigative Attorney

Before Sidney Harris, Administrative Law Judge.

Notice is hereby given that, as of this date, Jeffrey L. Gertler, Esq., and Dr. Cheri Taylor, Esq., of the Office of Unfair Import Investigations will be the Commission investigative attorneys in the above-cited investigation instead of Jeffrey L. Gertler, Esq., and Ethel L. Morgan, Esq.

The Secretary is requested to publish this Notice in the **Federal Register**.

Dated: November 7, 1986.

Respectfully Submitted,

Arthur Wineburg,

Director, Office of Unfair Import Investigations, U.S. International Trade Commission.

[FR Doc. 86–26120 Filed 11–18–86; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 303–TA–18, 701–TA–275, 277, and 278, and 731–TA–327 Through 334 (Final)]

Certain Fresh Cut Flowers From Canada, Chile, Colombia, Costa Rica, Ecuador, Israel, Kenya, Mexico, the Netherlands, and Peru

AGENCY: United States International Trade Commission.

ACTION: Institution of final countervailing duty and antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigations No. 303–TA–18 (Final) under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) and Nos. 701–TA–275, 277, and 278 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of certain fresh cut flowers which have been found by the Department of Commerce, in preliminary determinations, to be subsidized by the Governments of the following countries:

Canada [1] [Investigation No. 701–TA–275 (Final)], Israel [2] [Investigation No. 701–TA–277 (Final)], The Netherlands [3] [Investigation No. 701–TA–278 (Final)], and Peru [4] [Investigation No. 303–TA–18 (Final)].

Unless the investigations are extended, Commerce will make its final subsidy determinations in these investigations on or before January 5, 1987, and the Commission will make its final injury determinations by February 23, 1987 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

The Commission also gives notice of the institution of final antidumping investigations Nos. 731–TA–327 through 334 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the following countries of certain fresh cut flowers which have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States at less than fair value (LTFV):

Canada [1] [Investigation No. 731–TA–327 (Final)]

Chile [5] [Investigation No. 731–TA–328 (Final)]

Colombia [6] [Investigation No. 731–TA–329 (Final)]

Coasta Rica [7] [Investigation No. 731–TA–330 (Final)]

Ecuador [8] [Investigation No. 731–TA–331 (Final)]

Kenya [9] [Investigation No. 731–TA–332 (Final)]

[1] Fresh cut flowers from Canada subject to investigation include miniature (spray) carnations and standard carnations, provided for in items 192.17 and 192.21, respectively, of the Tariff Schedules of the United States (TSUS).

[2] Fresh cut flowers from Israel subject to investigation include miniature (spray) carnations and gerbera, provided for in items 192.17 and 192.21, respectively, of the TSUS.

[3] Fresh cut flowers from the Netherlands subject to investigation include miniature (spray) carnations (TSUS item 192.17), and standard chrysanthemums, alstroemeria, and gerbera, provided for in item 192.21 of the TSUS.

[4] Fresh cut flowers from Peru subject to investigation include miniature (spray) carnations (TSUS item 192.17), and pompom chrysanthemums and gypsophila, provided for in item 192.21 of the TSUS.

[5] Fresh cut flowers from Chile subject to investigation include standard carnations, provided for in item 192.21 of the TSUS.

[6] Fresh cut flowers from Colombia subject to investigation include miniature (spray) carnations (TSUS item 192.17), and standard carnations, standard cyrysanthemums, pompom chrysanthemums, alstroemeria, gerbera, and gypsophila, provided for in item 192.21 of the TSUS.

[7] Fresh cut flowers from Costa Rica subject to investigation include miniature (spray) carnations (TSUS item 192.17), and standard carnations and pompom chrysanthemums, provided for in item 192.21 of the TSUS.

[8] Fresh cut flowers from Ecuador subject to investigation include miniature (spray) carnations (TSUS item 192.17), and standard carnations, standard chrysanthemums and pompom chrysanthemums, provided for in item 192.21 of the TSUS.

[9] Fresh cut flowers from Kenya subject to investigation include miniature (spray) carnations and standard carnations, provided for in items 192.17 and 192.21, respectively, 192.21 of the TSUS.

Mexico [10] [Investigation No. 731-TA-333 (Final)], and

Peru [4] [Investigation No. 731-TA-334 (Final)].

Unless the investigations are extended, Commerce will make its final LTFV determinations on or before January 12, 1987, and the Commission will make its final injury determinations by February 23, 1987 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673(b))).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: October 27, 1986.

FOR FURTHER INFORMATION CONTACT: Daniel Dwyer (202-523-4618), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters of certain fresh cut flowers in Canada, Israel, the Netherlands, and Peru, and as a result of affirmative preliminary determinations by Commerce that imports of certain fresh cut flowers from Canada, Chile, Colombia, Costa Rica, Ecuador, Kenya, Mexico, and Peru are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). These investigations were requested in petitions filed on May 21, 1986, by the Floral Trade Council, Davis, California. In response to those petitions the Commission conducted preliminary countervailing duty and antidumping investigations and, on the basis of information developed during the course of those investigations, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (51 FR 25751, July 16, 1986).

Participation in the Investigations

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provieed in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff Report

A public version of the prehearing staff report in these investigations will be placed in the public record on January 5, 1987, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on January 20, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 12, 1987. All persons desiring to appear at the hearing and makes oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on January 14, 1987, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is January 15, 1987.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on January 27, 1987. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before January 27, 1987.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: November 14, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-26121 Filed 11-18-86; 8:45 am]

BILLING CODE 7020-02-M

[10] Fresh cut flowers from Mexico subject to investigation include standard carnations, standard chrysanthemums and pompom chrysanthemums, provided for in item 192.21 of the TSUS.

[Investigation No. 337-TA-231]

Certain Soft Sculpture Dolls, Popularly Known as "Cabbage Patch Kids," Related Literature and Packaging Therefor; Issuance of General Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Determination of violation of section 337 of the Tariff Act of 1930 and issuance of a general exclusion order.

Authority: 19 U.S.C. 1337.

SUMMARY: The Commission has determined that a general exclusion order pursuant to section 337(d) of the Tariff Act of 1930 (19 U.S.C. 1337(d)) is the appropriate remedy for the violations of section 337 found to exist in the above-captioned investigation; that the public interest considerations enumerated in section 337(d) do not preclude the issuance of such an order; and that the amount of the bond during the Presidential review period shall be 165 percent of the entered value of the imported articles.

FOR FURTHER INFORMATION CONTACT: Stephen A. McLaughlin, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0421.

SUPPLEMENTARY INFORMATION: On July 11, 1986, the presiding administrative law judge (ALJ) issued an initial determination (ID) finding that there is a violation of section 337 in the unauthorized importation into and sale in the United States of certain soft sculpture dolls, popularly known as "Cabbage Patch Kids." On August 28, 1986, the Commission determined to review those portions of the ID relating to the country of origin marking requirements, the scope of the domestic industry, and the effect or tendency to substantially injure a domestic industry. No other issues were reviewed and the reminder of the ALJ's ID was thereby adopted by the Commission. 51 FR 31731 (Sept. 4, 1986). The Commission requested written comments on the issues under review and on the issues of remedy, the public interest, and bonding. Submissions were received from complainants Original Appalachian Artworks, Inc. and Coleco Industries, Inc. and the Commission investigative attorney, but not from any respondent.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § § 210.54 through 210.56 of the Commission's Rules of Practice and Procedure (19 CFR 210.54-210.56).

Notice of this investigation was published in the **Federal Register** on November 7, 1985 (50 FR 46,368).

Copies of the Commission's Action and Order, the nonconfidential version of the ALJ's ID, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0471. Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-724-0002.

By order of the Commission.

Issued: November 7, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-26122 Filed 11-18-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-250]

Certain Ventilated Motorcycle Helmets; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Arthur Wineburg, Esq. and T. Spence Chubb, Esq. of the Office of Unfair Import Investigations will be the Commission investigative attorneys in the above-cited investigation instead of Arthur Wineburg, Esq. and Steven H. Schwartz, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: October 1, 1986.

Respectfully submitted,

Arthur Wineburg,

Director, Office of Unfair Import Investigations, U.S. International Trade Commission.

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-276X]

Nashville and Ashland City Railroad Co. and Tenmet, Inc., Exemption; Discontinuance of Service, in Davidson and Cheatham Counties, TN

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the discontinuance of service by the Nashville and Ashland City Railroad Co., and Tenmet, Inc., over 20.76 miles of rail line of the Illinois Central Gulf Railroad Company, between Nashville and Ashland City, TN, together with the rail property known as the North Nashville lead running from 26th Avenue to 1st Avenue in Nashville, TN, subject to standard labor protection.

DATES: This exemption will be effective on December 19, 1986. Petitions to stay must be filed by December 4, 1986. Petitions for reconsideration must be filed by December 15, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB-276X to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Eric D. Gerst, Gerst and Heffner, 21 South Fifth Street, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229 , Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: November 6, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley dissented in part with a separate expression. Vice Chairman Simmons did not participate.

Noreta R. McGee,

Secretary.

[FR Doc. 86-26085 Filed 11-18-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Judgment Pursuant to Clean Air Act; United States v. National Gypsum Company and Decorative Coverings, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on November 6, 1986, a proposed consent judgment in *United States* v. *National Gypsum Company and Decorative Coverings, Inc.*, Civil Action No. 86-3203-T, was lodged with the United States District Court for the District of Massachusetts. The proposed consent judgment requires National Gypsum Company to pay a civil penalty of $232,000 for past violations of the

paper, fabric, and vinyl volatile organic carbon emission limitations of the Massachusetts State Implementation Plan ("SIP"). The consent judgment also requires Decorative Coverings, Inc., which purchased National Gypsum Company's facility in Hatfield, Massachusetts, to install air pollution control equipment and reformulate coatings to achieve compliance and maintain compliance with the Massachusetts SIP by and after May 1, 1987.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *National Gypsum Company, et al.*, D.J. Ref. 90–5–2–1–989.

The proposed consent judgment may be examined at the office of the United States Attorney, District of Massachusetts, 1107 John W. McCormack, Post Office and Courthouse, Boston, Massachusetts 02109, at the Region I office of the Environmental Protection Agency, John F. Kennedy Federal Building, Rm. 2203, Boston, Massachusetts 02203, and at the Department of Justice, Environmental Enforcement Section, Land and Natural Resources Division, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to *United States* v. *National Gypsum Company, et al.*, D.J. Ref. 90–5–2–1–989 and include a check in the amount of $2.70 ($.10 per page reproduction charge) payable to the United States Treasury.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–26060 Filed 11–18–86; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Literature Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Literary Publishing Section) to the National Council on the Arts will be held on December 4–5, 1986, from 9:00 a.m.–5:30 p.m.; on December 6, 1986, from 9:00 a.m.–3:00 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 6, from 12:00 p.m.–1:00 p.m. to review guidelines and discuss policy issues.

The remaining sessions of this meeting on December 4–5, 1986 from 9:00 a.m.–5:30 p.m.; on December 6, from 9:00 a.m.–12:00 p.m. and from 2:00–3:00 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

November 13, 1986.

[FR Doc. 86–26032 Filed 11–18–86; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Bi-Weekly Notice; Applications and Amendments To Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Pub. L. (Pub. L.) 97–415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on November 5, 1986 (51 FR 40274), through November 7, 1986.

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.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

By December 19, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing

Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (i5) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief):* petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket No. STN 50–528, Palo Verde Nuclear Generating Station (PVNGS), Unit No. 1, Maricopa County, Arizona

Date of Amendment Request: October 2, 1986.

Description of Amendment Request: The proposed amendment would modify the Technical Specifications (Appendix A to Facility Operating License No. NPF–41 for PVNGS Unit 1) as follows:

The containment spray system performance is based on a single train flow rate of 3,740 gpm. As part of the effort to increase the containment sprav. pump performance margin for Technical Specification Surveillance Testing, an evaluation of peak containment pressures and temperatures was performed by the licensee, assuming a reduced containment spray pump flowrate of 3,525 gpm. Since the results of that evaluation (provided in PVNGS FSAR Section 6.2.1, Amendment 15) indicate that containment peak accident pressure can be increased from 49.2 to 49.5 psig, which is still well within the containment design pressure of 60.0 psig, the licensee has requested the following Technical Specification changes:

(1) Limiting Conditions for Operation 3.6.1.2.a, 3.6.1.3.b and Surveillance Requirements 4.6.1.1.c, 4.6.1.2.a, 4.6.1.2.d, 4.6.1.3.b and associated Bases sections: change the containment peak accident pressure (Pa) from 49.2 psig to 49.5 psig based upon the results of the current containment analyses.

(2) Action Statement a.1 of Limiting Condition for Operation 3.6.1.3: add a clarification note to the action statement to allow for the opening of the outer containment air lock door to facilitate the repair of an inoperable inner air lock door. The proposed added clarification would also limit the allowable time spent with the outer air lock door open to one hour per year.

(3) Surveillance Reqirement 4.6.2.1.b: change the containment spray pump differential pressure requirement from 273 psid to 257 psid. This proposed change would be in accordance with the assumptions used in the containment analyses where the containment spray pump flow rate was

reduced in order to increase operating margins.

The proposed changes are being requested to make the Palo Verde Unit 1 Technical Specifications consistent with the Palo Verde Unit 2 Technical Specifications which were previously reviewed and accepted by the staff.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

A discussion of these standards as they relate to the amendment request follows:

Standard 1—Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.—The results of the containment analyses for a containment spray pump flow rate of 3,525 gpm for the most limiting containment pressurization transient indicate a containment peak accident pressure of 49.5 psig which would be within the design pressure of 60.0 psig for the containment building. Therefore, the integrity of the containment would continue to be assured and the offsite dose consequences of accidents which may result in the pressurization of the containment would not be increased by this change.

The proposed amendment does not, therefore, significantly increase the probability or consequences of an accident.

Standard 2—Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated.—The proposed amendment does not vary or affect any plant operating condition or parameter. It would only change the containment integrity surveillance requirements to be consistent with current analyses and limit the time the outer containment air lock door could be opened to repair an inoperable inner air lock door. For these reasons, the NRC staff has determined that the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Standard 3—Involve a Significant Reduction in a Margin of Safety.—The requested amendment does not change any of the design bases for the plant. For this reason, the NRC staff has determined that the changes do not involve a significant reduction in any margins of safety.

Based on the above considerations, the Commission proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room Location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for Licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: George W. Knighton.

Baltimore Gas & Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: July 31, 1986 as supplemented by letter dated November 5, 1986.

Description of amendment request: The following proposed change to the technical specifications (TS) is in partial response to the Baltimore Gas and Electric Company (BG&E) application dated July 31, 1986. This proposal was further modified by BG&E's letter dated November 5, 1986. The remaining issues will be addressed in separate correspondence. The proposed TS change would modify the Units 1 & 2 TS 3/4.7.8, "Snubbers," by deleting Table 3.7–4, "Safety Related Hydraulic Snubbers," and by changing the requirement "All snubbers listed in Table 3.7–4 shall be operable," provided in TS Limiting Condition for Operation (LCO) 3.7.8.1, to the proposed requirement "All safety related snubbers shall be operable."

By letter dated November 5, 1986, the licensee requested a note be added to LCO 3.7.8.1 which would state that safety related snubbers include those snubbers installed on safety related systems and snubbers on non-safety related systems if their failure or the failure of the system on which they are installed would have an adverse effect on any safety related system.

Basis for proposed no significant hazards consideration determination: The proposal to delete Table 3.7–4, "Safety Related Hydraulic Snubbers," from the Units 1 and 2 TS 3/4.7.8, "Snubbers," is an administrative change that is in accordance with the Commission guidelines presented in Generic Letter (GL) 84–13, "Technical Specification for Snubbers."

GL 84–13 states that the Commission has reassessed the inclusion of snubber listings within the TS and has concluded that such listings are unnecessary provided the snubber TS is modified to specify which snubbers are required to be operable. The snubbers that were recommended for required operability by GL 84–13 included all snubbers with the exception of those snubbers installed on non-safety related systems whose failure or failure of the system on which they are installed would have no adverse effect on any safety related systems. The licensee's proposal that only safety related snubbers shall be operable complies with the guidance of GL 84–13 as the licensee's definition of safety related snubbers in the LCO includes all snubbers specified by GL 84–13.

The licensee evaluated the proposed change against the standards of 10 CFR 50.92 and has determined that the amendments would not:

(i) Involve a significant increase in the probability or consequences of an accident previously evaluated . . .

This change is administrative in nature. Though the snubber table is being deleted, all of the snubbers that are currently required to be operable will still be required to be demonstrated operable in the proposed requirement. As such, the proposed change does not involve any increase in the probability or consequences of an accident previously evaluated.

(ii) Create the possibility of a new or different type of accident from any accident previously evaluated . . .

As this proposal does not alter any snubber operability requirements, no possibility of creating a new or different type of accident would result due to the proposed change.

(iii) Involve a significant reduction in margin of safety.

All current snubber operability requirements are unaffected by this proposed administrative change. Therefore, this proposal will not involve any reduction in a margin of safety.

Based upon the above, the NRC staff agrees with the licensee's evaluation and proposes to determine that the proposed change to TS 3.4.7.8 involves no significant hazard consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for Licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Ashok C. Thadani.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: October 2, 1986.

Description of amendment request: The proposed amendment would add Figure 3.11–7 to the Technical Specifications to provide the maximum average planar linear heat generation rate (MAPLHGR) versus planar average exposure curves for fuel type BP8DRB300. The licensee proposes to use fuel type BP8DRB300 during Reload 7 in addition to the fuel types currently reflected in curves in Figures 3.11–1 through 3.11–6.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment it must provide to the Commission its analysis, using the standards in 10 CFR 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the following analysis has been provided by the licensee:

(1) Will operation of the facility in accordance with the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Operating Pilgrim Station in accordance with the proposed amendment will not result in a significant increase in the probability or consequences of an accident because the characteristics of type BP8DRB300 fuel is not significantly different from fuel types previously reviewed and approved for use in Pilgrim's core. Analysis demonstrating this has been performed by General Electric.

The method is contained in NEDE–24011–P–A–7–US of August 1985, which was submitted to the NRC September 24, 1985 for review in accordance with the criteria of Section 4 of the Standard Review Plan (NUREG 0800).

The Emergency Core Cooling System models used to determine the effects of a loss of coolant accident (LOCA) in accordance with 10 CFR 50.46 and Appendix K indicate no increased probability or consequences resulting from installing BP8DRB300 fuel into the PNPS core. The results of that analysis did generate a new MAPLHGR curve, represented in Figure 3.11–7, which may be incorporated as an amendment to technical specifications.

Operating Pilgrim in conformance to Figure 3.11–7 results in no significant increase in the probability or consequences of an accident previously evaluated.

(2) Will operation of the facility in accordance with the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated:

Operating Pilgrim Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated because the various analyses performed in accordance with the NRC approved methodologies and computer models identified above indicate that conformance to proposed Figure 3.11–7 is enveloped by previously evaluated accidents.

(3) Will operation of the facility in accordance with the proposed amendment involve a significant reduction in margin of safety?

Operating Pilgrim Station in accordance with the proposed amendment will not involve a significant reduction in a margin of safety because analyses conducted in accordance with NRC approved methodologies demonstrate that the margin of safety remains substantially unchanged by the incorporation of BP8DRB300 into the Pilgrim core. Such incorporation does require the addition of Figure 3.11–7. Operation in accordance with Figure 3.11–7 will ensure that no significant reduction of a safety margin occurs.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, based on the above, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W.S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: John A. Zwolinski.

Carolina Power and Light Company, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: October 13, 1986.

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) for the H.B. Robinson Steam Electric Plant Unit No. 2. The proposed revision changes the TS to:

(1) Increase the fuel enrichment from 3.5% to 3.9% for high density poisoned spent fuel racks, Section 5.3.1.3 and Section 5.4.2.2;

(2) Rewrite and reformat Section 5.4 to add:

a. 21-inch center-to-center spacing of the fuel storage racks;

b. the $0.98K_{eff}$ criteria for an optimum moderation event; and

c. proposed 1500 ppm boron concentration that is required in the spent fuel pit during new fuel movement or storage;

(3) Correct a typographical error in Table 4.1–2 item 1, and add: "sampling prior to New Fuel Movement in the Pit," to item 7.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for a no significant hazards determination by providing certain examples (51 FR 7155). Several of these are:

(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature; and

(ii) A chanoe. that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement.

In addition, the Commission has provided guidance concerning the determination of significant hazards considerations by providing certain standards (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

The above item 2 a&b, contained in the Description, are additions for clarification purposes and do not add or delete requirements, and Item 3 corrects errors. These changes are, therefore, similar to example (i) above.

Item 2c adds boron concentration requirements and Item 3 adds a new requirement ". . . or New Fuel Movement in the Spent Fuel Pit." These added requirements are similar to example (ii) above (see also item 1 below).

Item 1 increases the fuel enrichment from 3.5% to 3.9%. The impact of core enrichment on operational safety margins is an integral part of each core reload analysis.

The staff has reviewed the proposed increase in fuel enrichment in accordance with the criteria set forth in 10 CFR 50.92(c) and determined that the proposed amendment does not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed because the only accident scenarios for which the probability of occurrence are affected by new fuel enrichment involve criticality events during fuel handling and storage. The criticality safety analysis submitted to the staff demonstrated that, with the imposed boron concentration and storage geometry controls, the fuel enrichment could be raised to 4.2% during fuel handling and storage and still remain adequate to ensure subcriticality for all defined accident conditions. The proposed limit of 3.9% is well below the analyzed limit of 4.2%. The analysis shows a K_{eff} of less than 0.95 assuming new fuel storage racks flooded with unborated water and assures that K_{eff} is less than 0.98 in an optimum moderator event.

Therefore, since subcriticality is maintained in accordance with staff requirements, no releases could result from a fuel handling criticality accident and, therefore, the consequences of an accident are not increased.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the only potential impact of increased enrichment upon new fuel storage and handling involves the potential for criticality. The potential for criticality has been analyzed as discussed in (1) above and with the K_{eff} of 0.95, assuming new fuel storage racks flooded with unborated water, and the K_{eff} less than 0.98 in an optimum moderator event assures subcriticality. Therefore, there is no possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety because the criticality analysis submitted to the staff demonstrates that the imposed geometry and boron concentration provides adequate margin to ensure subcriticality of the new fuel during storage and handling operations. This has been demonstrated by showing that the K_{eff} is less than 0.95 assuming new fuel racks flooded with unborated water and a K_{eff} of 0.98 in an optimum moderator event. On the basis of the above discussions, the staff proposes to determine that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: Lester S. Rubenstein.

Commonwealth Edison Company, Docket No. STN–50–454, Byron Station, Unit 1, Ogle County, Illinois

Date of amendment request: September 15, 1986.

Description of amendment request: The amendment would revise Technical Specification Table 4.3–1 on page 3/4 3–9 and 3/4 3–12. The change replaces the requirement to measure the source range neutron flux instrumentation high voltage plateau curve with a requirement to measure source range neutron flux instrumentation discriminator bias curves.

This change is requested because the new Westinghouse (the vendor) low-noise pre-amplifier source range alignment procedure does not require that high voltage plateau curves be obtained. Instead, a discriminator bias curve is required to be obtained and is used to demonstrate degradation of the source range detectors, if any occurs. Currently, Byron Station obtains plateau curves to satisfy the existing Technical Specifications and also obtains discriminator bias curve to satisfy the new vendor recommendation. The proposed revision will be consistent with the vendor's new recommendation.

It is the staff's intention to apply this amendment to Byron Station, Unit 2, when it receives its operating license if the amendment is found acceptable for Byron Station, Unit 1.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and determined that it involves no significant hazards considerations. In accordance with the criteria of 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 because the functions of the source range neutron flux instrumentation are not being changed or degraded as a result of this Technical Specification revision. The change allows incorporating the vendor recommendations of obtaining data which can be used to determine potential source range detector degradation. Therefore, the probability or consequences of previously evaluated accidents are unaltered.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the revision to the Technical Specification does not change any of the operational characteristics of the source range neutron flux instrumentation, or the manner that the system is operated. Hence, the possibility of a new or different kind of accident being created than previously evaluated is unchanged.

(3) Involve a significant reduction in the margin of safety because there are no changes being made to hardware, or in the manner that the system is being operated. The automatic actions, response times, setpoints and alarms of the source range neutron flux instrumentation are not affected by this technical specification revision. Therefore, the margin of safety is not being compromised as a result of this proposed license amendment.

Based on the preceding assessment, the staff proposes to determine that this proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

Attorney for licensee: Michael Miller, Isham, Lincoln & Beal, One First National Plaza, 42nd Floor, Chicago, Illinois 60603.

NRC Project Director: Steven A. Varga.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, La Salle County Station, Units 1 and 2, La Salle County, Illinois

Date of amendment request: October 23, 1986.

Description of amendment request: The proposed amendment to Operating License No. NPF–11 and Operating License No. NPF–18 would revise the La Salle Unit 1 and 2 Technical Specifications regarding the water level setpoint for closure of the Main Steam Isolation Valves (MSIVs). This setpoint would be changed from reactor low-low water level (Level 2, i.e., equal to 111.5 inches from top of the active fuel) to reactor low-low-low water level (Level 1, i.e. 32.5 inches from top of the active fuel). The purpose of lowering the MSIV isolation setpoint is to reduce the probability of reactor isolation during operation and thus reduce the potential challenges to the safety/relief valves (SRVs).

The objective of Item II.K.3.16 in the "TMI Action Plan Reouirements" (NUREG–0737) is to reduce the potential challenges and failures of SRVs. In response to this requirement the BWR Owners Group submitted the results of a feasibility study and evaluation of various actions and modifications which might reduce the challenges and failures of SRVs. The staff evaluated the BWR

Owners Group feasibility study and concluded that in addition to a preventive maintenance program, the staff endorsed three modifications that would achieve the objectives of NUREG–0737, Item II.K.3.16. One of the three recommended actions or modifications was to lower the reactor water level isolation setpoint for main steam level isolation valve closure from Level 2 to Level 1. The purpose of these amendments is to implement one of the staff's recommended actions.

The proposed change would allow more energy to be released to the main condenser. The net effect is added manual response time for the reactor operator and a lesser challenge to the integrity of the suppression pool structures. By removing this energy, the reactor system safety is improved from the standpoint of reducing safety relief valve (SRVl challenges and the potential for stuck open SRVs. This, in turn, would increase plant availability and simplify plant operation.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the NRC staff agrees, that the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because it could reduce the probability of an accident previously evaluated (stuck open safety/relief valve) and could reduce the potential consequences of certain events by allowing the main condenser to remain available for a longer time. This allows more energy to be removed from the primary system and containment without adversely affecting offsite dose rates. This will also effect the repressurization rate after MSIV closure if the reactor vessel level does reach level 1.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the MSIVs still close on reactor low level, therefore, a change in this setpoint will not create the possibility of a new or different kind of accident from any previously evaluated since the change does not entail a hardware modification or any change in plant operating procedure, nor would the change in setpoint create a new accident sequence.

(3) Involve a significant reduction in the margin of safety because by permitting more energy to be removed from the containment and dissipated in the condenser following a reactor scram, and reducing the challenges to SRVs, an increase in the margin of safety will be provided.

Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney for licensee: Isham, Lincoln and Burke, Suite 840, 1120 Connecticut Avenue NW., Washington, DC 20036.

NRC Project Director: Elinor G. Adensam.

Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: February 17, 1983 as supplemented August 23, 1984 and superseded January 20, 1986.

Description of amendment request: The new proposed amendments supersede in its entirety, (1) the February 17, 1983 request for amendments, which was noticed in the **Federal Register** on September 21, 1983 (49 FR 43132) and (2) the August 23, 1984 supplemental request for amendments, which was noticed in the **Federal Register** on February 27, 1985 (50 FR 7981). The changes proposed by, the licensee amend the Quad Cities Units 1 and 2 Technical Specifications (TS) to incorporate changes in the Commonwealth Edison corporate and station organizations. The administrative changes reflect both organizational changes and changes necessitated by revisions to 10 CFR 50.54, 50.72 and 50.73. More specifically, the changes include page numbers, new figures reflecting the revised corporate and station organizations, title changes, revised Shift Manning Charts to conform with 10 CFR 50.54(m)(2)(i), and miscellaneous administrative changes.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

10 CFR 50.91 requires at the time a licensee requests an amendment, it must provide to the Commission its analysis, using the standards in Section 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has provided the following analysis.

Commonwealth Edison has evaluated the proposed Technical Specification amendment and determined that it does not represent a significant hazards consideration. Based on the criteria for defining a significant hazards consideration established in 10 CFR 50.92(c), operation of Quad Cities 1 and 2 in accordance with the proposed amendments will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

the proposed changes involve administrative changes in the management organizational structural and do not affect any plant equipment or operational procedures which could impact the probability or consequences of an accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated for the same reason as 1) above. No new equipment or operating practices are being introduced.

(3) Involve a significant reduction in the margin of safety since the amendment does not affect any operating practices or limits nor any equipment or system important to safety.

In addition the Commission has previously provided guidance in the form of specific examples of amendments which do not involve a significant hazards consideration. The administrative nature of these changes. falls within those examples.

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 consideration.

Local Public Document Room location: Moline Public Library, 504—17th Street, Moline, Illinois 61265.

Attorney for licensee: Mr. Michael I. Miller; Isham, Lincoln, & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: John A. Zwolinski.

Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station. Units 1 and 2, Rock Island County, Illinois, and Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of amendment request: May 14, 1986.

Description of amendment request: The proposed changes to the Technical Specifications for Quad Cities Units 1 and 2 and Dresden Units 2 and 3 would impose operability requirements on the existing 4 kv cross-tie which provides an alternate source of off-site AC power to the units' electrical distribution systems. The existing specification references the 4 kv cross-tie but does not require it to be operable if off-site AC power is available from more than one transmission line. The proposed amendments would require the cross-tie to be operable in addition to at least one other source of off-site power. In the event either source of off-site power becomes unavailable, the existing requirements and time limitations for restoring two sources of off-site power remain in effect.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists, as given in 10 CFR 50.92(c). The licensee has performed an evaluation using the criteria given in 10 CFR 50.92(c) and applying them to the proposed Technical Specification changes.

The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated because deletion of the provision which allows the 4 kv cross-tie to be inoperable increases availability of the cross-tie and ensures its operability whenever either unit's reactor is made critical. This more stringent operability requirement guarantees that the cross-tie will be available as the second source of off-site power to provide sufficient capability to assure that design limits are not exceeded as a result of anticipated operational occurrences, and that in the event of a postulated accident, the core is cooled and containment integrity and other vital functions are maintained.

The proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated because the changes only provide more positive enforcement of the general design criterion requirement that two independent sources of off-site power be available to permit functioning of structures, systems, and components important to safety. The new requirement that the 4 kv cross-tie be operable is in the conservative direction and does not allow any new or different modes of operation that could result in any new or different type of accident.

The proposed amendments do not involve a significant reduction in a margin of safety because the more restrictive operability requirement on the 4 kv cross-tie assures that an adequate back-up supply of off-site power is available during plant operation to operate auxiliaries, to safely shutdown the plant, and to operate the engineered safeguards following an accident. The changes assure the maximum availability of off-site power during plant operation which actually increases the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Based on this review, the staff proposes to determine that the proposed amendments involve no significant hazards consideration.

Local Public Document Room location: Moline Public Library, 504—17th Street, Moline, Illinois 61265 (Quad Cities 1/2); and Morris Public Library, 604 Liberty Street, Morris, Illinois 60451 (Dresden 2/3).

Attorney for licensee: Mr. Michael I. Miller; Isham, Lincoln, & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: John A. Zwolinski.

Commonwealth Edison Company, Docket No. 50–265, Ouad Cities Nuclear Power Station, Unit 2, Rock Island County, Illinois

Date of amendment request: October 28, 1986.

Description of amendment request: Commonwealth Edison (CECo) proposed to modify the Quad Cities Unit 2 Technical Specifications (TS) to support a planned modification to the Standby Liquid Control System (SBLC) to meet the requirements of 10 CFR 50.62. The specific changes to the TS involve replacing the boron concentration versus solution volume curve with a minimum allowable volume of 3321 gallons of solution at a minimum concentration of 14 weight percent. The required SBLC pump flow rate is increased from 39 to 40 gpm. Also the allowable setpoint band for the system pressure relief valves has been increased from the current 1400 to 1490 psig to a band of 1455 to 1545 psig to reflect the increased pump discharge pressure during two pump operation. Finally, the TS bases have also been revised to reflect the above changes.

Basis for proposed no significant hazards consideration determination: The facility change discussed in the licensee's submittal is being implemented to comply with the requirements of 10 CFR 50.62 and in accordance with 10 CFR 50.59. The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 reouires at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis.

Commonwealth Edison has evaluated the proposed Technical Specification changes and determined they do not represent a significant hazards consideration. Based on the criteria for defining a significant hazards consideration established in 10 CFR 50.92(c), operation of Quad Cities in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes maintain the total amount of boron injection previously required by the Technical Specifications thereby maintaining the previous shutdown reactivity capability. The proposed changes are needed to implement the requirements of 10 CFR 50.62 and have no impact on systems or equipment that could potentially initiate or impact the probability of an accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the changes involve a system whose only function is to provide a backup shutdown capability. The changes do not affect any systems or equipment which could initiate an accident.

(3) Involve a significant reduction in the margin of safety because the overall shutdown reactivity capability (i.e., total boron injection) of the SBLC system is not reduced by these changes. The proposed amendment supports required modifications which will increase the SBLC system injection rate, thereby increasing the margin of safety for Anticipated Transient without Scram events.

Based on the above discussion, Commonwealth Edison concludes the proposed Technical Specification changes do not represent a Significant Hazards Consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposed to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Moline Public Library, 504—17th Street, Moline, Illinois 61265.

Attorney for licensee: Mr. Michael I. Miller; Isham, Lincoln, & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: John A. Zwolinski.

Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Benton Countv, Illinois

Date of application for amendments: September 19, 1986.

Description of amendments request: These amendments will extend the duration of Zion's Operating Licenses to allow for 40 years of operation. The

current Zion Operating Licenses expire forty years from the issuance of Construction Permits CPPR–50 and 59, on December 26, 1968. The current situation allows for an operating life of thirty-five years, eight months for Zion Unit 1 and thirty-five years, one month for Zion Unit 2. Thus, an operating life extension of approximately four and one-half years for Zion Station will result from this proposal to allow the Zion Operating Licenses to expire forty years from the issuance of Operating Licenses DPR–39 and DPR–48 on April 6, 2013 and November 14, 2013, respectively.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists [51 FR 7751 (March 6, 1986)]. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Licensee provided the following discussion regarding the above three criteria:

Criterion 1

Zion Station will continue to be operated within its design limits. The surveillance and inspection programs that have been implemented in accordance with the Code of Federal Regulations, ASME Standards, and the Technical Specifications ensure that Zion Station will continue to operate as designed. This results in the continued validity of the assumptions and results of the Zion safety analysis.

Zion Station was originally designed for a forty year operating life and plant thermal cycles are being experienced at a rate that is less than that considered during Zion's design. Thus, the Station has not been experiencing any unexpected duty that could result in accelerated aging.

The extension of Zion's operating life to forty years will also not affect any external phenomena such as the occurrence of an earthquake or a tornado. Thus, the above discussion indicates that the probability of a previously analyzed accident will be unaltered due to the license extension because the overall plant performance is not expected to be altered. Zion Station will not be operated beyond its forty year life and all components will continue to function as intended. Thus, the probability of any accident occurring is unaltered.

The consequences of any previously evaluated accident will be likewise unaffected. Since the plant's system and component operability will be preserved, the applicable safety functions will always be available. Thus, the consequences of a postulated accident will not be altered from the previous evaluations.

Criterion 2

There will be no change in the operating conditions for Zion Station as a result of the license extension. There are no new factors, parameters, or conditions that might affect Zion Station. Since the plant operating conditions will not be altered, then the possibility for a new or different kind of accident could not be created.

Criterion 3

All plant systems and components will continue to function as intended. This will be ensured by the programs and requirements discussed above. This would include the maintenance of all pertinent plant safety functions. Since all safety functions will continue to be available and since safety system performance will not degrade, then the margin of safety will not be altered.

Therefore, since the application for amendment satisfies the criteria specified in 10 CFR 50.92, Commonwealth Edison has made a determination that the application involves no significant hazards consideration. The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

The licensee's request for extension of the operating license is based on the fact that a 40-year service life was considered during the design and construction of the plant. This does not mean, however, that some components will not require replacement during the plant lifetime. To accomplish this, design features were incorporated that maximize the inspectability of structures, systems and equipment. Surveillance and maintenance practices that are implemented in accordance with the ASME Code and the unit Technical Specifications provide assurance that any degradation in plant equipment will be identified and corrected. Examples of these practices include:

(1) The reactor vessel surveillance program established in accordance with 10 CFR 50, Appendix H.

(2) The fracture toughness requirements delineated in 10 CFR 50, Appendix G.

(3) The fracture toughness requirements established in 10 CFR 50.61 for protection against postulated Pressurized Thermal Shock events.

(4) The inspection and testing requirements of the ASME Standards, as required by 10 CFR 50.55a.

(5) The surveillance and operability requirements contained in the Zion Technical Specifications.

(6) The design control reviews required by 10 CFR 50.59, which ensure the preservation of the intended plant safety design functions.

In addition, surveillance capsules placed inside the reactor vessel provide a means of monitoring the cumulative effects of power operation.

Aging analyses have been performed for all safety related electrical equipment in accordance with the requirements of 10 CFR 50.49, "Environmental qualification of electrical equipment important to safety for nuclear power plants", identifying qualified lifetimes for this equipment. These lifetimes are incorporated into equipment maintenance and replacement practices to insure that all safety-related electrical equipment remains qualified and available to perform its safety function throughout a 40 year lifetime. Based on this, the Commission proposes to determine that the proposed changes to the Technical Specification involve no significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney to licensee: P. Steptoe, Esq., Isham, Lincoln and Beale, Counselors at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602.

NRC Project Director: Steven A. Varga.

Detroit Edison Company, Docket No. 50-341, Fermi–2, Monroe County, Michigan

Date of amendment request: October 24, 1986.

Description of amendment request: The proposed amendment, if approved, would revise the Fermi-2 Operating License No. NPF–43 Plant Technical Specification 3/4.7.2, entitled, "Control Room Emergency Filtration System". The Fermi-2 Control Center Heating, Ventilation and Air Conditioning System (CCHVAC) is an engineered safety feature which is designed to ensure (1) that the ambient air temperature does not exceed the allowable temperature for continuous

duty rating for the equipment and instrumentation cooled by the CCHVAC, and (2) that the control room will remain habitable for plant operations personnel during and following all design basis accident conditions.

Technical Specification 4.7.2.e.2 currently requires that at least once every 18 months the control room emergency filtration system be operated to demonstrate that the system will automatically switch to its recirculation mode of operation on each of the following actuation test signals:

(a) Control center inlet air radiation monitor,

(b) Reactor Building ventilation exhaust radiation monitor,

(c) Radwaste Building ventilation exhaust radiation monitor,

(d) Turbine Building ventilation exhaust monitor,

(e) Fuel pool ventilation exhaust monitor,

(f) Low reactor water level, and

(g) High drywell pressure.

This required surveillance verifies that on any one of the above listed actuation test signals, the CCHVAC automatically switches into recirculation mode; the isolation dampers close within 5 seconds of actuation; and the control room is maintained at a positive pressure of at least 0.125 inch water gauge relative to the outside atmosphere. During system operation, a flow rate less than or equal to 1800 cfm is maintained through the emergency makeup air filter. The proposed change will eliminate the Radwaste Building and the Turbine Building ventilation exhaust radiation monitors (items (c) and (d) above) from Technical Specification 4.7.2.e.2.

In a letter dated October 24, 1986 (VP–86–0132), the licensee indicated that, in addition to Technical Specification 4.7.2.e.2, the Radwaste Building and the Turbine Building ventilation exhausts are each continuously monitored with their own radiation monitors as required in Technical Specification 3.3.7.12, entitled, "Radioactive Gaseous Effluent Monitoring Instrumentation." A trip of either of these radiation monitors will place the CCHVAC in the recirculation mode, isolating the respective building ventilation exhaust effluent release pathways.

The licensee's evaluation of reportable events pursuant to 10 CFR 50.72 regarding software and hardware failures experienced with the Radwaste Building and Turbine Building ventilation exhaust radiation monitors in the CCHVAC system indicated that neither of these ventilation exhaust radiation monitors are necessary in the CCHVAC system, nor desirable for tripping the CCHVAC to enter the recirculation mode. The logic trips are not necessary because similar monitors in the Radwaste and Turbine Buildings will isolate the HVAC systems in those buildings terminating any release of radioactivity in progress before a control room habitability consideration arises. In the event of a situation where radionuclide concentrations in the air supply to the CCHVAC rises to a level which could adversely affect control room habitability, including failure of the Radwaste Building and Turbine Building HVAC trip functions, the CCHVAC system control center inlet air radiation monitor (item a above) would cause the CCHVAC system to trip into its recirculation mode. The other remaining Technical Specification 4.7.2.e.2 trip function monitors, listed above, will continue to provide "defense in depth" in that an alarm signal in any or all of the remaining CCHVAC system monitors could occur in anticipation of a reactor or fuel handling accident. Maintaining the Radwaste Building and Turbine Building ventilation exhaust radiation monitors in the CCHVAC system trip logic is considered by the licensee to be undesirable because of the likelihood of continuing spurious trip which would result in unnecessarily challenging the CCHVAC system, thereby reducing the reliability of this engineered safety feature.

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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed change to Technical Specification 4.7.2.e.2: (1) Does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change would not affect the ability to isolate the control room and all associated monitors would continue to provide isolation trip signals in their appropriate system areas. The proposed modification of the CCHVAC system trip logic interlocks will not change any of the parameters utilized in any previously analyzed accident, and the Radwaste Building and Turbine Building vent exhaust fans and dampers will continue to isolate their respective plant areas upon reaching the radiation monitor setpoint. In addition, the control room has two independent inlet radiation monitors that will place the CCHVAC system in a recirculation mode, if any high radiation level effluents are detected; (2) the change does not create the probability of a new or different kind of accident from any previously evaluated, since all of the effluent paths have the same monitoring and isolating features as in the original design. No new or different accident possibilities are created because the basis for the isolation of all of the individual building vent exhaust paths remains unchanged; (3) the change does not involve a significant reduction in safety margin, since there is no change to the monitor setpoints, design bases, or in the response time of effluent monitor isolation circuits. The Radwaste Building and the Turbine Building effluent paths will continue to be monitored for radiation, and will be surveillance tested to ensure they will trip closed as designed. The CCHVAC control center air radiation monitor will continue to monitor the incoming makeup air and isolate the CCHVAC upon sensing high radiation levels. The Reactor Building vent exhaust, fuel pool vent exhaust, and the north and south control center emergency air supply radiation monitoring channels will continue to initiate the recirculation mode of the CCHVAC system. In addition, the plant operator can manually isolate the control room and will continue to receive annunciator indications of radiation levels in the control room from the Radwaste Building vent exhaust, the Turbine Building vent exhaust, and the control center area radiation monitors. Therefore, sufficient redundancy for isolation of the CCHVAC system tests without the need for automatic isolation that would be provided by the monitors to be deleted, from Technical Specification 4.7.2.e.2.

The NRC staff generally agrees with the licensee's determinations and findings in support of the proposed Technical Specifications change, and proposes to evaluate the proposed change to confirm that no significant hazards will be involved with the charge if approved.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for the licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48909.

NRC Project Director: Elinor G. Adensam.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: October 27, 1986.

Description of amendment request: Surveillance Requirement 4.7.1.2.1a.2) for Catawba Units 1 and 2 presently requires that each steam turbine-driven auxiliary feedwater pump periodically be demonstrated operable by verifying that it develops a total dynamic head of at least 3550 feet at a flow of at least 400 gpm when the secondary steam supply pressure is greater than 600 psig and the auxiliary feedwater pump turbine is operating at 3600 rpm. The proposed amendments would maintain these same requirements, but change 3600 rpm to a value less than or equal to 3800 rpm.

Basis for proposed no significant hazards consideration determination: The proposed change would allow the rpm setting for the pump turbine governor to be adjusted up to 3800 rpm to achieve the same required total dynamic head under the same minimum conditions of flow and secondary steam supply pressure. The increased rpm adjustment would result in a slight increase in actual pump discharge flow and, thereby, enhance system safety performance. Although the pump and turbine would operate with reduced margin to the overspeed trip setpoints (4140 rpm for the electronic overspeed device and 4500 rpm for the mechanical overspeed device), such reduction is slight, and therefore, the proposed rpm setpoint is not expected to result in a significant change in the possibility that the pump safety function would be defeated by excessive overspeed. The licensee also states that the proposed change will not cause any adverse effects on the pump or pump turbine because both were designed and analyzed by the manufacturer for operation up to and including 3800 rpm.

The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendments and determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed change would allow the turbine-driven pump to better fulfill its intended function during an accident and thus would potentially decrease the consequences of an accident. Also, it would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because operation of the auxiliary feedwater turbine-driven pump at the increased speed has been evaluated by the manufacturer and found acceptable and because the proposed change introduces no new mode of operation (only a slightly higher operating speed) and no physical modifications (other than adjustment of the pump turbine governor). Finally, it would not (3) involve a significant reduction in a margin of safety because, as discussed above, the accompanying increase in actual pump discharge flow would allow the pump to better perform its safety functions and the slight decrease in margin to the overspeed trip setpoints is not deemed significant. Thus, the overall safety margin is not significantly reduced. Accordingly, the Commission proposes to find that the change does not involve a significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: May 14 and July 14, 1986.

Description of amendment request: The proposed amendments would change the service designation of penetration number M348 in Technical Specification (TS) Table 3.6.1 "Secondary Containment Bypass Leakage Paths" and an associated footnote (Note 1) to indicate that this penetration, currently designated as the Upper Head Injection (UHI) Test Line, will be utilized for the post accident liquid sample (PALS) discharge line following removal of the UHI system. Similarly, associated valve numbers WL 1301B and WL 1302A on the PALS discharge line, which will receive a Phase A containment isolation signal for automatic closure within at least 15 seconds, would be added to TS Table 3.6–2 "Containment Isolation Valves" and noted to be effective upon removal of the UHI system.

Additional changes requested by the licensee are outside the scope of this notice.

Basis for proposed no significant hazards consideration determination: By previous license amendments No. 57 (Unit 1) and 38 (Unit 2), the Commission authorized changes to the McGuire TSs associated with physical removal of the UHI system, including changes to reflect deletion of UHI related containment penetrations and containment isolation valves once the UHI system is removed. By separate action (NUREG–0737, Item II.B.3), the Commission has provided a position on design of postaccident sampling capability which, in part, states that residues of sample collection should be returned to containment or to a closed system. The proposed amendment would authorize existing penetration M348, whose present service designation will no longer be applicable after UHI system removal, to be used for the PALS return line in accordance with with TMI Action Item II.B.3. The penetration and associated valving would continue to conform to the Commission's General Design Criteria regarding containment isolation (GDC–56) and leak rate testing capability, including 10 CFR 50, Appendix J.

The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards consideration. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request and has determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) involve a significant reduction in a margin of safety, because the penetration presently exists through the containment vessel, no cutting of the containment vessel or other significant modification to the penetration will occur, and the change does not decrease the allowable leak rate of the containment or isolation requirements of the system (PALS) utilizing the penetration. The request also would not (3) create the possibility of a new or different kind of accident from any accident previously evaluated because the change in service designation does not involve any structural change to the existing penetration and the PALS lines and valves involve no new or novel features.

Accordingly, the Commission proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of

North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: October 13, 1986.

Description of amendment request: This revision to the Technical Specifications seeks to increase the maximum fuel enrichment to 4.0 w/o U–235 from the current Technical Specification maximum allowable enrichment of 3.5 w/o U–235.

Basis for proposed no significant hazards consideration determination: By previous Amendments 35 (Unit 1) and 16 (Unit 2), the Commission authorized changes associated with replacement of the McGuire spent fuel storage racks with high density storage racks which allowed use of fuel having initial enrichments up to and including 4.0 w/o U–235. Use of higher enrichment fuel in the reactor core will be demonstrated to be acceptable by cycle-specific reload safety evaluations performed prior to each fuel loading. Therefore, the criticality potential related to the proposed amendments is associated with storage of unirradiated (new) fuel with the higher enrichment in the new fuel storage racks. In its letter of October 13, 1986, the licensee describes its criticality analysis which demonstrates the existing new fuel storage racks can safely accommodate new fuel at the proposed enrichment. Preliminary review by the NRC staff supports the results of the licensee's analysis.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed these standards as they relate to these amendments and finds the following:

(1) Do the proposed license amendments involve a significant increase in the probability or consequences of an accident previously evaluated?

The increased fuel enrichment of up to 4.0 w/o U–235 will not affect the core operating parameters, such as power level, reactor coolant temperature, reactor coolant pressure and core peaking factors. These parameters are considered in detail in the core reload safety evaluations. As such, the operating transient analyses are not impacted solely by a change in the maximum allowable fuel enrichment.

The higher enrichments will facilitate extended fuel cycles. An extended fuel cycle will not increase the fuel rod gap activity since the activity reaches an equilibrium value prior to the end of the current fuel cycle. As such, the off-site dose consequences of a fuel handling accident will not be increased significantly due to an extended fuel cycle.

In conclusion, the proposed Technical Specifications change for maximum allowable enrichment and the associated storage of such new fuel will not significantly increase the probability or consequences of the FSAR design basis accidents.

(2) Do the proposed license amendments create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change seeks to increase the enrichment of the fuel pellets only. No hardware changes are necessary. The maximum power operation level will not be increased. As such, the requested change will not create a new or different kind of accident.

(3) Do the proposed amendments involve a significant reduction in a margin of safety?

The analysis provided by the licensee shows that the criticality design criteria specified by ANSI N 18.2–1973, Section 5.7.4.1 will not be exceeded if the new fuel is loaded into the existing new fuel storage racks.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Florida Power and Light Company, Docket No. 50–335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: October 17, 1986.

Description of amendment request: The licensee proposes to modify Technical Specification 5.3.1 entitled "Reactor Core—Fuel Assemblies." This specification requires that each fuel rod have a nominal active fuel length of 136.7 inches. The proposed specification will require a fuel rod to have a nominal active fuel length of between 134.1 and 136.7 inches. The licensee also proposes that individual fuel assemblies contain fuel rods of the same nominal active fuel length.

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 addressed the above three standards in the amendment application. In regard to the first standard, the licensee provided the following analysis:

> Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.
>
> Modification to the nominal active fuel lenoth will result in no changes to the plant procedures as described in the Final Safety Analysis Report (FSAR). There will be no changes to the plant's structure, systems, or components other than the fuel rods in new fuel assemblies. The only change to these fuel rods is to reduce the clad and active fuel length while increasing the lower end cap length. Both the overall fuel rod dimensions and its spatial orientation in the fuel bundle are unchanged.
>
> The core's total active fuel length is shortened by about 0.75%. Analysis of this design change indicates a negligible impact on safe operation of the plant as result of the design change impacts on the core power peaking and mechanical compatibility of reload fuel.
>
> By extending the lower spacer assembly, FPL is assuring that any debris entrapped in fresh fuel by the lower spacer grid will fret against solid zircaloy instead of fuel cladding material significantly lowering the probability of low burnup fuel failures. This

provides additional assurance that any type of fretting-related failures will not occur.

Finally, there is no change in the probability of spacer grid damage during fuel loading.

In connection with the second standard, the licensee states that:

Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will result in no changes to the plant's procedures, structures, systems, mode of operation or components other than the fuel rod modification. No new or different materials or manufacture techniques will be used to produce fuel rods. No additional tests or experiments not described in the FSAR are necessary to implement the proposed change.

The proposed fuel design changes do not adversely impact the performance of fuel already residing in the core or of the reload fuel itself. No fuel rod mechanical properties have been changed with the exception of the cladding length, active fuel length and lower end cap length. Overall fuel rod length and clad and cap material composition remain unchanged.

Regarding the third standard, the licensee states that:

Use of the modified specification would not involve a significant reduction in a margin of safety.

No inputs or results from plant safety analysis require modifications as a result of the proposed change. Neither the plant's procedures, structures, systems, or components have change other than the fuel rod design. The impact of the design change on core power peaking is not significant and is well within the measurement uncertainties of these parameters. The difference between fuel safety limits and the results of the safety analysis, which is representative of the margin of safety, is unchanged.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon the review, it appears that the standards have been met because (1) on a fuel rod basis, only a small fraction of fuel is being removed and metal is being put in its place (removal of no more than 2.6 inches nominally out of a total of 136.7 inches nominally); (2) there is no difference between fuel safety limits and the results of the safety analysis; (3) no inputs or results from plant safety analysis require modification; and (4) no other core related technical specification changes, such as limited conditions for operation, are necessary.

Based upon the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NPC Project Director: Ashok C. Thadani.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: September 2, 1986.

Description of amendment request: In Generic Letter (GL) 84–15, the Commission's staff informed the licensees that the frequency of diesel generator cold fast start tests from ambient conditions should be reduced. The licensees' submittal requests a change in the action statements of Technical Specification (TS) 3.8.1.1. Specifically, the time frame for demonstration of diesel generator operability would be changed from "within one hour" to "within 24 hours" if one AC power supply is inoperable, and to "within eight hours" if two AC power supplies are inoperable. The requirement to test the diesel generators every eight hours thereafter would be deleted.

Basis for proposed no significant hazards consideration determination: The purpose of the requested change is to increase diesel generator reliability by reducing excessive test starts and situations where the diesels are running parallel with the grid. The diesel generator manufacturer and the Commission's staff have identified excessive diesel generator testing as contributing to diesel degradation. The current TS requires that diesel generator operability be demonstrated within one hour if one or two AC power supplies are inoperable, and every eight hours thereafter. This could result in up to nine tests within 72 hours. In view of the Commission's guidance on reducing the number of diesel generator tests per GL 84–15, Crystal River Unit 3 frequently satisfies the action statement by running the diesels continuously (except in inclement weather) while loaded parallel to the grid to avoid starting them every eight hours. When the diesels are thus operated, they are subject to possible transients from the nonvital and offsite power systems. Revising the action statement would improve overall diesel reliability and availability.

The licensees have determined, and the Commission's staff agrees, that this amendment request does not involve a significant hazards consideration. Diesel generator reliability would still be demonstrated monthly. The change is consistent with the staff's position (per GL 84–15) concerning excessive diesel generator starts as a contributor to overall premature diesel degradation.

The Commission has proposed a determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that the operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any previously evaluated; or (3) involve a significant reduction in a margin of safety.

The probability or consequences of an accident previously evaluated would not be increased as a result of the proposed changes. Reducing the test frequency is consistent with the diesel manufacturer and GL 84–15 recommendations and will improve diesel reliability by minimizing severe test conditions which could lead to premature failures. Also, the possibility for an accident of a different type than previously analyzed is not created because the proposed changes affect only testing frequency. The changes involve no new mode of plant operation nor do they modify equipment or setpoints. Finally, the margin of safety, as defined in the basis for any TS, is not reduced. The changes do not affect the capability of the diesels to perform their function. Rather, the purpose of the changes is to enhance overall diesel generator reliability. Therefore, based on the above considerations the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

Local Public Document Room lucation: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629.

Attorney for licensee: R.W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733.

NRC Project Director: John F. Stolz.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia

Date of amendment request: August 27, 1986 augments the submittal of February 17, 1986.

Description of amendment request: This submittal augments the submittal of

February 17, 1986, which was noticed in the Federal Register on May 7, 1986 (51 FR 16927). This submittal augments the previous request for an amendment by proposing an additional change to the administrative Technical Specifications (TS) that would modify the wording in TS Section 6.5.1.6.F concerning review of reportable occurrence requiring notification to the Commission to make it consistent with the wording proposed for TS Section 6.6.1.b in the February 17, 1986 submittal. Specifically, it would change the requirement to review reportable occurrences requiring 24-hour notification to the Commission to require that all reportable occurrences requiring notification to the Commission be reviewed.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7751). An example (ii) of actions involving no significant hazards considerations is an amendment involving a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The proposed Technical Specification modification imposes additional limitations, restrictions and controls and therefore falls within this example.

Therefore, since the application for amendment involves proposed changes that are similar to an example for which no significant hazards considerations exist, the Commission has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: Daniel R. Muller.

GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: October 23, 1986 (TSCR 148).

Description of amendment request: The proposed amendment would revise the requirements on the maximum radioiodine concentration allowed in the reactor coolant in Sections 3.6 and 4.6, Radioactive effluents, in the Appendix A Technical Specifications (TS). The proposed changes (1) add two new definitions to Section 1.0, Definitions, and to the Table of Contents, (2) reduce the maximum allowed concentration of radioiodine in the reactor coolant in Section 3.6, (3) add reporting requirements to Section 3.6 and (4) restrict the reactor modes, where a radioiodine sample is required to be taken, to the Run, Startup and Hot Shutdown Modes in Section 4.6.

Basis for proposed no significant hazards consideration determination: The licensee stated in its amendment request that on October 22, 1984, it submitted Technical Specification Change Request (TSCR) No. 69, Revision 1, "Radiological Effluent Environmental Technical Specifications." The TSCR No. 69, Revision 1 proposed changes to TS Sections 3.6 and 4.6 concerning reactor coolant system (RCS) radioiodine activity limits and surveillance requirements. These changes were proposed following discussions with the NRC staff during the integrated assessment of the Systematic Evaluation Program (SEP) for Topic XV–16, "Radiological Consequences of Failure of Small Lines Carrying Primary Coolant Outside Containment."

Subsequently, the NRC staff requested resubmittal of the proposed changes for RCS radioactivity limits by providing a definition for DOSE EQUIVALENT Iodine I-131, limits for non-iodine radioactivity in the RCS and an annual reporting requirement for radioiodine spiking as shown in Standard Technical Specifications for General Electric Boiling Water Reactors (NUREG–0123), and NRC Generic Letter 85–19, "Reporting Requirement on Primary Coolant Iodine Spikes." The staff also requested changes to the Limiting Conditions for Operation which are also given in NUREG–0123.

Therefore, the licensee has prepared TSCR 148 in response to the staff's request described above. The TSCR 148 includes the information requested with exceptions of non-iodine radioactivity limits and a part of the Limiting Conditions (i.e., sampling requirement following changes in thermal power or off-gas level). These exceptions are continuing to be evaluated by the licensee. Meanwhile, Specification No. 1302–28–001 "Technical Specification, Water Quality, Oyster Creek Nuclear Generating Station" addresses limit and monitoring requirements for non-iodine radioactive effluent at the plant stack in order to assure that radioactive material is not released to the environment in an uncontrolled manner and to assure that the radioactive concentrations of any material released is kept as low as is reasonably achievable.

This change request provides definitions, limiting conditions for operation, surveillance and an annual reporting requirement to incorporate the applicable requirements provided in the Standard Technical Specifications for General Electric Boiling Water Reactors and NRC Generic Letter 85–19. The licensee has determined that this chance request involves no significant hazards considerations in that operation of the Oyster Creek Plant in accordance with the proposed amendment will:

(1) Not involve a significant increase in the probability of an accident previously evaluated, because the primary coolant activity is not an initiator of an accident. Also, the proposed change will not increase the consequences of an accident, because the proposed change, a reduction of the primary coolant activity limit, will not result in an increased amount of radioactive release for design basis accidents previously evaluated; or

(2) Not create the probability of a new or different kind of accident from any accident previously evaluated because a bounding design basis accident associated with changes in the primary coolant activity level was already evaluated and reported in the updated Final Safety Analysis Report (FSAR) (i.e., Control Rod Drop Accident): or

(3) Not involve a significant reduction in a margin of safety because a more restrictive limit for the primary coolant radio-iodine activity will increase a margin of safety.

The staff has reviewed the licensee's no significant hazard considerations above and is in agreement with the conclusions drawn by the licensee.

Therefore, because the licensee's request meets the above three criteria in 10 CFR 50.92(c), the staff proposes to determine that the licensee's proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Attorney for licensee: Ernest L. Blake, Jr.; Shaw, Pittman, Potts, and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Indiana and Michigan Electric Company, Docket No. 50–315, Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, Michigan

Date of amendment request: October 31, 1986.

Description of amendment request: The proposed amendment would change the Technical Specifications to allow certain tests designated as 18 month

surveillance to be delayed until the end of the next refueling outage currently rescheduled to begin during the second quarter of 1987. These tests could be done at power but if done at power, would represent some increase in risk from possible reactor trips and plant transients. This proposed amendment is unlike the Licensee's request dated October 1, 1986 in that the October 1, 1986 request was for an extension of surveillances that could only be done with the plant shutdown.

The tests in this request include channel calibrations of steam generator level, steam generator mismatch, pressurizer level, overtemperature/ overpressure delta T, pressurizer pressure, lower containment pressure, steam line pressure, 4kV loss of voltage, and channel calibrations of the power operated relief valves. These channel calibrations are for instruments associated with the Engineered Safety Features Actuation System, the Remote Shutdown Monitoring System and the Post Accident Monitoring System. The request is also to extend the total interlock function tests for the P11 and P12 Engineered Safety Features interlocks.

Basis for proposed no significant hazards consideration determination: The Commission's standard for determining whether a significant hazards consideration exists is 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 changes proposed by the licensee will extend certain tests to the next refueling outage rather than perform the tests at power with new or revised procedures. The safety significance, therefore, is in consideration of extending some 18 month tests until about 24 months and the confidence that the components or systems will still perform their intended function with the extension of time.

An additional consideration is the risk of unwarranted reactor trips and plant transients if the licensee attempts the tests at power with new or revised procedures. The licensee has evaluated each test and has provided the basis for maintaining confidence that the components or systems will continue to function adequately. We have reviewed the licensee's submittal and summarize below our agreement with the licensee's findings.

The Engineered Safety Feature Activation System instrumentation have channel functional tests and channel checks periodically which demonstrate operability. Only the sensor is not checked in the channel functional tests, but the channel checks provide a comparison with other monitors and variables and would reveal any significant changes in the sensor. The Remote Shutdown Monitoring Instrumentation and the Post Accident Monitoring Instrumentation receive monthly channel checks which provide the comparison with other monitors and variables.

The extension will not result in a significant increase in the probability or consequences of a previously evaluated accident nor will it create the possibility of a new or different kind of an accident. Any loss of calibration during the extension is expected to be small and will not result in a significant reduction in the margin of safety. Further, the extension of time to perform the surveillance would negate the need to revise or prepare new procedures for the tests at power. These procedures and the tests have the potential for causing reactor trips and plant transients which have been evaluated and therefore do not represent new or different kinds of accidents. However, inadvertent trips from these procedures could result in some minor increase in risks and although the performance of the tests is not prohibited, the likely trips are unwarranted.

The Engineered Safety Features logic interlocks (P–11 and P–12) are tested each month by an automatic actuation logic test. The extension is for the interlock function test which is performed during the delta T/Tavg and pressurizer pressure channel calibrations. The sensor input and check against the output bistables will be delayed during the extension, however, the critical functioning of the actuation logic will be tested and there is little reason to believe that extending the full function test will have any effect on safety or operation. The extension will not result in a significant increase in the probability or consequences of a previously evaluated accident nor will it create the possibility of a new or different kind of an accident. Any loss of input calibration or output bistable interaction during the extension is expected to be small and will not result in a significant reduction in the margin of safety.

Based on the above, the staff has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 M Street, NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: August 20, 1986, as supplemented by letter dated October 6, 1986.

Description of amendment request: The proposed changes would revise Technical Specification 3.1.2.1, "Boration Systems, Flow Paths—Shutdown", and 4.1.2.1, the associated surveillance requirement. The reason for these changes are to delete the requirement for a heat tracing circuit in the Boric Acid Makeup Tanks (BAMTs) and associated flow paths by reducing the maximum boron concentration in these tanks to less than or equal to 3.5 weight percent.

The heat tracing requirements for the boric acid makeup tanks and associated flow paths are no longer necessary because the maximum boron concentration in the tanks has been reduced to less than or equal to 3.5 weight percent. Chemical analyses have shown that a 3.5 weight percent solution of boric acid will remain dissolved (i.e., will not precipitate or "plate out") at solution temperatures above 50 °F. Reducing the boron concentration in these tanks requires that they maintain an increased water volume to meet the shutdown margin requirements of Technical Specification 3.1.1.2. The volume of borated water that must be maintained is equal to approximately 4,150 gallons of 2.25 weight percent boric acid. This amount of boron is sufficient to maintain the required shutdown margin during a xenon-free cooldown from 200 °F to 140 °F.

Basis for proposed no significant hazards considerations determination: The NRC staff proposes to determine that the proposed changes do not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the

probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in the margin of safety. The basis for this proposed finding is given below.

(1) Deleting the requirement for a heat tracing circuit by reducing the boric acid makeup tank boron concentration is accounted for by increasing the volume of borated water that must be maintained in the tanks. The amount of boron that must be available is equal to approximately 4,150 gallons of 2.25 weight percent boric acid. This amount of boron is sufficient to maintain the shutdown margin requirements of Technical Specification 3.1.1.2 during a xenon-free cooldown from 200 °F to 140 °F. In addition, controls on the boric acid makeup tank temperature ensure that the lack of heat tracing does not result in precipitation of the boron. The effect of the proposed changes, therefore, does not significantly increase the probability or consequences of any accident previously evaluated.

(2) The reason for requiring a heat tracing circuit was to ensure that the dissolved boric acid was in solution and hence, available for injection into the Reactor Coolant System in the event of an emergency. By lowering the boric acid concentration to a maximum of 3.5 weight percent, chemical analyses have shown there is no possibility of the boron precipitating out of solution as long as the temperature of the borated water remains above 50 °F; thus, there is no longer a need for heat tracing. Since the boron will be in solution when this flow path is credited and will therefore be available for emergencies, the proposed changes do not create the possibility of a new or different kind of accident from those previously evaluated.

(3) The intent of this Technical Specification is to ensure there is a flowpath of highly borated water available to achieve and maintain the required shutdown margin during an emergency. In order for the flowpath to be credited, the boron must remain in solution from the time it leaves the BAMTs until it reaches the Reactor Coolant System. Previous analyses have shown that by reducing the boric acid concentration to a maximum of 3.5 weight percent, the boron will remain in solution at temperatures above 50 °F. By compensating for the reduction in boron concentration by increasing the amount available in the BAMTs, there is a sufficient amount of boron to maintain the shutdown margin requirements of Technical Specification 3.1.1.2. Surveillance requirement 4.1.2.1 retains the requirements to verify that the flow path is in its correct position and has been amended to ensure that the boric acid solution in the BAMTs is greater than 55 °F when crediting this flowpath. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037.

NRC Project Director: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana.

Date of Amendment Request: August 20, 1986, as supplemented by two letters dated October 6, 1986.

Description of Amendment Request: The proposed changes would revise Technical Specification 3.1.2.2, "Boration Systems, Flow Paths—Operating", ACTION statement "a" to this specification and the associated Surveillance Requirement 4.1.2.2. The proposed changes would also reference a revised Technical Specification Figure 3.1–1 which shows the minimum Boric Acid Makeup Tank (BAMT) water volumes as a function of BAMT concentration and Refueling Water Storage Pool (RWSP) concentration. The reason for these changes is to delete the requirement for a heat tracing circuit in the BAMTs and associated flow paths by reducing the maximum boron concentration in the tanks to less than or equal to 3.5 weight percent.

Reducing the boron concentration in the BAMTs requires that they maintain a higher water volume in order to meet the safe shutdown requirements of Branch Technical Position RSB 5–1, "Design Requirements of the Residual Heat Removal System." The volume of borated water that is required from these tanks is shown in the revision to Figure 3.1–1. During a natural circulation cooldown with no letdown available, this figure shows the minimum volume of borated water necessary to maintain the required shutdown margin during the initial stages of plant cooldown and depressurization. Once the volume of water has been depleted, the RWSP is used to supply borated water to the RCS. This provides sufficient boron to meet the shutdown margin requirements for the remainder of the cooldown. Thus, both the BAMT(s) and the RWSP are required to maintain the shutdown margin requirements to Technical Specifications 3.1.1.1 and/or 3.1.1.2 during the natural circulation cooldown.

Previously, this specification has required at least one of the BAMTs to meet the requirements of Figure 3.1–1. The proposed change will add the flexibility of meeting the Limiting Condition for Operation (LCO) by combining the contents of both BAMTs. This option was added because the proposed revision to Figure 3.1–1 allows the boron concentration in the BAMTs to go as low as 2.25 weight percent. In this case the volume requirement of approximately 14,000 gallons cannot be met with a single tank. However, if the combined contents of both tanks are used to comply with the LCO, it must be shown that both boric acid makeup pumps and both gravity feed valves are OPERABLE. This ensures that both BAMTs have two independent flow paths for injecting their contents into the RCS.

The proposed change to ACTION statement "a" of this specification will simply refer to the actual shutdown margin Specification (either 3.1.1.1 or 3.1.1.2) instead of requiring the core to be at least 2% subcritical at an RCS temperature of 200 °F.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes to determine that these changes do not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in the margin of safety. The basis for this proposed finding is given below.

(1) Deleting the requirement for a heat tracing circuit by reducing the boron concentration in the BAMTs is accounted for by increasing the volume of boric acid solution that must be contained in the tanks and by also crediting borated water from the RWSP. During a natural circulation cooldown with no letdown available (Branch Technical Position RSB 5–1), sufficient

borated water is available in the BAMTs to maintain the required shutdown margin while the plant is depressurized to the point where borated water from the RWSP can be delivered to the RCS. This provides sufficient boron to ensure the shutdown margin requirements of Specification 3.1.1.1 and/or 3.1.1.2 are satisfied. Since the safe shutdown requirements of Branch Technical Position RSB 5–1 are satisfied, these changes do not significantly increase the probability or consequences of any accident previously evaluated.

(2) The reason for requiring a heat tracing circuit was to ensure that the dissolved boric acid was in solution and hence, available for injection into the Reactor Coolant System in the event of an emergency. By lowering the maximum boric acid concentration in the BAMTs to 3.5 weight percent, chemical analyses have shown that the boron will remain in solution at temperatures above 50 °F. Since requirements are in place to ensure that the BAMT solution remains above 55 °F when crediting this source of borated water, there is no longer a need for the heat tracing circuit. Therefore, since the proposed changes still ensure that the required boration flow paths are OPERABLE, it does not create the possibility of a new or different kind of accident from those previously evaluated.

(3) The intent of this Technical Specification is to ensure that there are two redundant flow paths from the borated water sources to the Reactor Coolant System and that both these flow paths remain OPERABLE. Surveillance requirement 4.1.2.2 retains the requirement to verify that each valve in the flow path is in its correct position and has been amended to verify that the borated water in the BAMTs is greater than 55 °F whenever the Reactor Auxiliary Building air temperature is less than 55 °F. Since chemical analyses have shown that a 3.5 weight percent solution of boric acid will remain in solution at temperatures above 50 °F, this Specification assures that the boric acid will remain in solution and will be able to be delivered to the RCS even if a single failure is assumed. Thus, the effect of the proposed changes does not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana.

Date of amendment request: August 20, 1986, as supplemented by letter dated October 6, 1986.

Description of amendment request: The proposed changes would revise Technical Specification 3.1.2.8, "Borated Water Sources—Operating," ACTION statement "a" to this specification, the associated surveillance requirement 4.1.2.8 and the Bases section related to Boration Systems (3/4.1.2). The proposed changes would also reference a revised Technical Specification Figure 3.1–1 which shows the minimum Boric Acid Makeup Tank (BAMT) water volumes as a function of BAMT concentration and Refueling Water Storage Pool (RWSP) concentration. The reason for these changes are to delete the requirement for a heat tracing circuit in the BAMTs by reducing the maximum boron concentration in the tanks to less than or equal to 3.5 weight percent.

Reducing the boron concentration in the BAMTs requires that they maintain a higher water volume in order to meet the safe shutdown requirements of Branch Technical Position RSB 5–1, "Design Requirements of the Residual Heat Removal System." The volume of borated water that is required from these tanks is shown in the revision to Figure 3.1–1. During a natural circulation cooldown with no letdown available, this figure shows the minimum volume of borated water necessary to maintain the required shutdown margin during the initial stages of plant cooldown and depressurization. Once this volume of water has been depleted, the RWSP is used to supply borated water to the RCS. This provides sufficient boron to meet the shutdown margin requirements for the remainder of the cooldown. Thus, both the BAMT(s) and the RWSP are required to maintain the shutdown margin requirements of Technical Specifications 3.1.1.1 and/or 3.1.1.2 during the natural circulation cooldown.

Previously, this specification has required at least one of the BAMTs to meet the requirements of Figure 3.1–1. The proposed change will add the flexibility of meeting the Limiting Conditions for Operation (LCO) by combining the contents of both BAMTs. This option was added because the proposed revision to Figure 3.1–1 allows the boron concentration in the BAMTs to go as low as 2.25 weight percent. In this case the volume requirement of approximately 14,000 gallons cannot be met with a single tank. However, if the combined contents of both tanks are used to comply with LCO, it must be shown that both Boric Acid Makeup pumps and both gravity feed valves are OPERABLE. This ensures that both BAMTs have two independent flow paths for injecting their contents into the RCS.

The proposed change to ACTION statement "a" of this specification will simply refer to the actual shutdown margin Specification (either 3.1.1.1 or 3.1.1.2) instead of requiring the core to be at least 2% subcritical at an RCS temperature of 200 °F.

Basis for proposed no significant hazards consideration determination. The NRC staff proposes to determine that the proposed changes do not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in the margin of safety. The basis for this proposed finding is given below.

(1) Deleting the requirement for a heat tracing circuit by reducing the boron concentration in the BAMTs is accounted for by increasing the volume of boric acid solution that must be contained in the tanks and by also crediting borated water from the RWSP. During a natural circulation cooldown with no letdown available (Branch Technical Position RSB 5–1), sufficient borated water is available in the BAMTs to maintain the required shutdown margin while the plant is depressurized to the point where borated water from the RWSP can be delivered to the RCS. This provides sufficient boron to ensure the shutdown margin requirements of Specification 3.1.1.1 and/or 3.1.1.2 are satisfied. Since the safe shutdown requirements of Branch Technical Position RSB 5–1 are satisfied, these changes do not significantly increase the probability or consequences of any accident previously evaluated.

(2) The reason for requiring a heat tracing circuit was to ensure that the dissolved boric acid was in solution and hence, available for injection into the

Reactor Coolant System in the event of an emergency. By lowering the maximum boric acid concentration in the BAMTs to 3.5 weight percent, chemical analyses have shown that the boron would remain in solution at temperatures above 50 °F. Since requirements are in place to ensure that the BAMT solution remains above 55 °F when crediting this source of borated water, there is no longer a need for the heat tracing circuit. Therefore, since the boron will be in solution and therefore available for emergencies, it does not create the possibility of a new or different kind of accident from those previously evaluated.

(3) The intent of this Technical Specification is to ensure that there is enough boron available to maintain the required shutdown margin during an emergency. In order for the boron to be available, it must remain in solution from the time it leaves the boric acid makeup tanks until it reaches the Reactor Coolant System. Reducing the maximum boric acid concentration to 3.5 weight percent ensures that all the boron will remain in solution (as long as the solution temperature is greater than 50 °F) while increasing the required volume in the tanks ensures there is a sufficient amount of boron available. Surveillance requirement 4.1.2.8 retains the requirements to verify the boron concentration and water volume of the tanks and has been amended to ensure the boric acid solution is greater than 55 °F. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St. NW., Washington, DC 20037.

NRC Project Director: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana.

Date of Amendment Request: August 20, 1986 as supplemented by letter dated October 6, 1986.

Description of Amendment Request: The proposed changes would revise Technical Specification 3.1.2.7, "Borated Water Sources—Shutdown", and 4.1.2.7, the associated surveillance requirement. The reason for the changes is to delete the requirement for a heat tracing circuit and the reference to Figure 3.1–1 of the Technical Specifications by reducing the maximum boron concentration in the Boric Acid Makeup Tanks (BAMTs) to 3.5 weight percent. In place of the reference to Figure 3.1–1, this specification will provide the required boron concentration and water volumes that must be maintained in the BAMTs.

The heat tracing requirements for the boric acid makeup tanks and associated flow paths are no longer necessary because the maximum boric acid concentration in the tanks has been reduced to less than or equal to 3.5 weight percent. Chemical analyses have shown that a 3.5 weight percent solution of boric acid will remain dissolved (i.e., will not precipitate or "plate out") at solution temperatures above 50 °F. Reducing the boron concentration in these tanks requires that they maintain an increased water volume to meet the shutdown margin requirements of Technical Specification 3.1.1.2. The volume of borated water necessary to meet this requirement is approximately 4,150 gallons of 2.25 weight percent boric acid. This amount of boron is sufficient to maintain the required shutdown margin during a xenon-free cooldown from 200 °F to 140 °F.

By reducing the maximum boron concentration in the boric acid makeup tanks, chemical analyses have shown that there is no longer the possibility of the boron precipitating out of solution as long as the temperature of the boric acid remains above 50 °F. Thus, surveillance requirement 4.1.2.7 will be modified to require verification that the boric acid makeup solution is at a temperature greater than 55 °F whenever the Reactor Auxiliary Building air temperature is less than 55 °F. These changes are consistent with other Technical Specification surveillance requirements for the Reactor Auxiliary Building (RAB) and provides approximately 5 °F margin before precipitation of the boron is possible. Similarly, changing the frequency of the surveillance from every seven days to when the Reactor Auxiliary Building air temperature is less than 55 °F is justified because it is unlikely that the temperature in the RAB would fall below 55 °F.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes to determine that these changes do not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in the margin of safety. The basis for this proposed finding is given below.

(1) Deleting the requirement for a heat tracing circuit by reducing the boric acid makeup tank boron concentration is accounted for by increasing the volume of borated water that must be contained in the tanks. The amount of borated water that must be available is equal to approximately 4,150 gallons of 2.25 weight percent boric acid. This amount of boron is sufficient to maintain the shutdown margin requirements of Technical Specification 3.1.1.2 during a xenon-free cooldown from 200 °F to 140 °F. In addition, controls on the boric acid makeup tank temperature ensure that the lack of heat tracing does not result in precipitation of the boron. The proposed changes, therefore, do not significantly increase the probability or consequences of any accident previously evaluated.

(2) The reason for requiring a heat tracing circuit was to ensure that the dissolved boric acid was in solution and hence, available for injection into the Reactor Coolant System in the event of an emergency. By lowering the boron concentration to a maximum of 3.5 weight percent, chemical analyses have shown there is no possibility of the boron precipitating out of solution as long as the temperature of the boric acid remains above 50 °F; thus there is no longer a need for heat tracing. Since the boron will be in solution when the BAMT flowpaths are credited and will therefore be available for emergencies, the proposed changes do not create the possibility of a new or different kind of accident from those previously evaluated.

(3) The intent of this Technical Specification is to ensure there is enough boron available to achieve and maintain the required shutdown margin during an emergency when the BAMT flowpaths are credited. In order for the boron to be available, it must remain in solution from the time it leaves the boric acid makeup tanks until it reaches the Reactor Coolant System. Previous analyses have shown that by reducing the boric acid concentration to a maximum of 3.5 weight percent, the boron will remain in solution at temperatures above 50 °F. By compensating for the reduction in boron concentration by increasing the volume available in the boric acid makeup tanks

there is a sufficient amount of boron to maintain the shutdown margin requirements of Technical Specification 3.1.1.2. Surveillance requirement 4.1.2.7 retains the requirements to verify the boron concentration and water volume of the tanks and has been amended to ensure that the boric acid solution is always greater than 55 °F. Therefore, the effect of the proposed change does not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

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NRC Project Director: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 1, 1986.

Description of Amendment Request: The proposed changes would revise Technical Specification 2.1.1.1, "Safety Limits, Reactor Core—DNBR"; 2.2.1, "Safety Limits, Reactor Trip Setpoints"; and the associated Bases to these Specifications. The reason for the proposed changes is to account for a different method of treating uncertainties in the CE–1 heat flux correlation and Departure from Nucleate Boiling Ratio (DNBR) calculation as applied to the 16 x 16 fuel assemblies of Waterford 3. Specifically, the proposed changes would combine the uncertainties associated with fuel manufacturing variations, as well as certain thermal-hydraulic uncertainties, using the methodology associated with the Statistical Combination of Uncertainties (SCU). These methods have been previously applied on other Combustion Engineering plants and have been approved by the NRC.

Use of the SCU methodology results in an increase in the minimum allowable value of the DNBR safety limit and the reactor trip setpoint for DNBR from a value of 1.205 to a Cycle 2 value of 1.260. The proposed new value would ensure, with a 95% confidence level, that if the hot channel in the core reaches the DNPP safety limit, there is still a 95% probability that departure from nucleate boiling has not occurred. This is the same probability/confidence level that applied to the 1.205 DNBR value that was used during Cycle 1. Thus, although some uncertainties would be removed from the actual Core Protection Calculator (CPC) calculation of core heat flux (and corresponding DNBR), they are factored into the determination of the reactor trip setpoint for low DNBR as well as the associated DNBP Safety Limit.

The proposed changes would also modify the pressurizer pressure range over which the DNBR algorithm used by the CPC's is valid. The new range would be from 1860 to 2375 psia and would be only slightly different from the range used during Cycle 1 (1845 to 2355 psia). The purpose of these proposed changes is to make the Waterford 3 parameter range consistent with ranges for other plants that utilize the CPC system. In addition, the licensee has requested that NOTE 6 to Table 2.2–1 be deleted. This is consistent with a previously issued license amendment for Waterford (Amendment No. 5, dated May 30, 1986), in which the list of CPC Addressable Constants was deleted. The CPC software has been designed with automatic acceptable input checks against limits that are specified by the CPC functional design specifications. Thus, inclusion of the addressable constants and software limit value described in NOTE 6 is redundant.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes to determine that the proposed changes do not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of any accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in the margin of safety. The basis for this proposed finding is given below.

(1) The proposed changes to the DNBR and CPC DNBR-Low trip setpoint have been considered in all transients that require protection by the low DNBR trip. In addition, those design basis accidents which use the safety limit setting to predict the number of fuel pins which experience DNB have been evaluated using the new limit of 1.260. All Anticipated Operational Occurrences (AOO's) result in a DNBR which remains above the Cycle 2 safety limit of 1.26. All accidents which result in a DNBR less than 1.26 have been evaluated to ensure acceptable fuel performance and that the off-site doses do not exceed the guidelines specified in 10 CFR Part 100. Thus, the proposed changes will not significantly increase the probability or consequences of any accident previously evaluated.

(2) The proposed changes do not affect the logic used by the CPC's to perform their design function of protecting the core from a violation of Specified Acceptable Fuel Design Limits (SAFDL's) during an AOO. Several of the uncertainties used in the CPC calculation of hot channel DNBR have been removed from the actual heat flux calculation and statistically combined with other uncertainties to determine a new DNBR safety limit and DNBR-Low trip setpoint. The new safety limit provides the same probability/confidence level that DNB will not occur during an AOO. Thus, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The intent of the DNBR safety limit and CPC DNBR-Low trip is to prevent overheating of the fuel cladding and possible cladding perforation which would result in the release of fission products to the reactor coolant. This is accomplished by maintaining the DNBR in the hottest coolant channel in the core at a value greater than the safety limit during normal operation and all AOO's. The CPC's perform this protective function by continuously monitoring the DNBR in the "hot channel". The proposed changes made to the CPC's (i.e., removal of some uncertainties) have been taken into account in the SCU methodology by increasing the DNBR Safety Limit/Trip Setpoint from 1.205 to 1.260. This limit ensures, with a 95/95 probability/confidence level, that the hot channel will not experience DNB during an AOO. Thus, the proposed changes will not involve a significant reduction of the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

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NRC Project Director: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana.

Date of Amendment Request: October 1, 1986.

Description of Amendment Request: The proposed changes would revise Table 3.3.2 of Technical Specification 3.3.1, "Reactor Protective Instrumentation Response Times". The reason for this change is to ensure that the response times associated with the Core Protection Calculator (CPC) calculation of a low Departure from Nuclear Boiling Ratio (DNBR), high Local Power Density (LPD) or low reactor coolant pump shaft speed reactor trip are consistent with the values used in the Cycle 2 safety analysis. The current values of the subject response times represent the conservatively long delay times that had to be assumed for the Cycle 1 safety analysis since plant specific measurements were not available. They were adequate to satisfy the acceptance criteria for low DNBR and high LPD during the limiting transients that were analyzed for Cycle 1.

The proposed CPC-related response times for Cycle 2 would be shorter (i.e., faster). than those used for Cycle 1. These values have been justified by the Cycle 2 safety analysis and are well within the actual response times measured prior to and during Cycle 1. Although these changes are not required for all the instruments shown in the proposed change to Table 3.3–2, the licensee has requested the changes at this time to eliminate unnecessary conservatisms in anticipation of potentially less favorable core parameters in future cycles.

The proposed increase in the hot and cold leg resistance temperature detector (RTD) response times is requested to account for the potential degradation of the RTD response times that have been observed at other plants. This proposed change will increase the likelihood that field measurements made on RTD response times will satisfy the Technical Specifications for Cycle 2 and future cycles. In addition, the footnote labeled "***" which follows Table 3.3.2 has been revised. The actual response time testing of these instruments in the field includes the time delay associated with the opening of the reactor trip breakers; hence, the footnote has been revised to reflect this. The Cycle 2 safety analysis was performed with the proposed response times discussed above; and the less favorable core parameters that result from an 18-month fuel cycle, and resulted in all applicable acceptance criteria being satisfied.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes to determine that the proposed changes do not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of any accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in the margin of safety. The basis for this proposed finding is given below.

(1) The anticipated operational occurrences (AOO's) and accidents that require the CPCS to respond with shorter (faster) response times than those listed in the current Technical Specification 3.3.1 (Table 3.3–2) are: (1) The loss of load from one steam generator (i.e., spurious closure of a main steam isolation valve), which is dependent upon the maximum response time of the cold leg temperature instrumentation and internal processing of that signal by the CPC's; (2) the CEA withdrawal and steam line break, which are dependent upon the maximum response times of the neutron flux power input from the ex-core detectors; and (3) the loss of flow, which is dependent upon the maximum response time of the reactor coolant pump shaft speed signals. These events were analyzed using response times consistent with the proposed change to Table 3.3–2 and the less favorable Cycle 2 core parameters during. the Cycle 2 safety analysis. The results of these analyses are presented in Section 7 of the Reload Analysis Report and show that the events are either bounded by the Cycle 1 safety analysis or they are within the acceptance criteria specified by the appropriate sections of the NRC Standard Review Plan. Thus, the proposed changes will not significantly increase the probability or consequences of any accident previously evaluated;

(2) The proposed changes are primarily a result of changes in the Cycle 2 core parameters and the subsequent reevaluation of the limiting AOO's. There has been no physical change to plant systems, structures or components. The only change to plant procedures will be a tightening of the acceptance criteria that must be satisfied when performing surveillance testing to verify the response times associated with internal CPC processing. Thus, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The intent of Table 3.3–2 is to ensure that the appropriate Engineered Safety Feature Actuation and/or reactor trip, which is associated with each protection system channel, is completed within the time limit assumed in the safety analysis. In this case, the response times assumed for the Cycle 2 safety analysis were somewhat faster than those used in the Cycle 1 analysis. Thus, in order to ensure the Cycle 2 analysis is valid, the actual response times must be less than or equal to the proposed change to Table 3.3–2. Since the Cycle 2 safety analysis has shown acceptable results using the response times listed in the proposed change to Table 3.3–2, there will not be a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

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NRC Project Director: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of Amendment Request: October 1, 1986.

Description of Amendment Request: This is a request to revise Technical Specification B3/4.1.3 and 3.1.3.6, "Movable Control Assemblies" and "Regulating CEA Insertion Limits", respectively.

Technical Specification 3.1.3.6 imposes limits on the allowable position of the regulating Control Element Assembly (CEA) groups and on the allowable duration within a given position range. The CEA insertion limits are given by Figure 3.1–2. The proposed change will increase the maximum allowable insertion of Group 6 by 7.5 inches during long term steady state operation. It would also reduce the allowable insertion during transient operation for Groups 5 and 6 above 20%

power. Between zero and 20% power, insertion of Group 4 would be limited to 60 inches.

Technical Specification 3.1.3.6 provides protection against a CEA ejection event. During such an event, limits are generally placed on how far CEA's may be inserted into the core in order to limit the event consequences—i.e., the greater the insertion, the larger the positive reactivity addition during a rod ejection. Because of the slightly higher fuel enrichments for Cycle 2, a slight increase in ejected rod reactivity would be expected in comparison to Cycle 1. The proposed change to Figure 3.1–2 will modify the insertion limits with respect to Cycle 1 to ensure that the consequences of the Cycle 2 CEA ejection are bounded by the Cycle 1 analysis presented in the FSAR.

Axial Shape Index (ASI). control is necessary during low power operation. ASI control can be provided by maneuvering Groups 5 and 6 essentially tip-to-tip within the limits established by the proposed change to Figure 3.1–2. An additional statement is proposed to be included in the Bases, B3/4.1.3 to clarify that this operation is permissible, and that proper protection against sequence error is provided for by the Core Protection Calculators.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes to determine that the proposed changes do not involve a significant hazards consideration. As required by the criteria of 10 CFR 50.92(c), a proposed change 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 any accident previously evaluated; or (2) Create the possibility or a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in the margin of safety. The basis for this proposed finding is given below.

(1) The proposed change to Figure 3.1–2 allows less flexibility during operating at and during approach to steady state full power operation. The Cycle 1 Safety Analysis remains the bounding analysis for the CEA ejection event. Therefore, there will be no significant increase in the probability or consequences of any accident previously evaluated. The proposed change to the Bases is a statement of clarification for operation under analyzed conditions.

(2) The proposed change to the operating restrictions on CEA insertion limits remains bounded by the Cycle 1 analysis and, therefore, does not create any new fault or accident path. As such, it cannot create a new or different kind of accident than any previously evaluated. The statement in the Bases provides clarification for operation under analyzed conditions.

(3) The proposed change of Figure 3.1–2 ensures that the Cycle 2 CEA ejection event is less limiting than the Cycle 1 event. Therefore, the proposed change does not involve a significant reduction in a margin of safety. As clarification, the statement in the Bases has no impact on any safety margins.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 77511) of amendments that are considered not likely to involve significant hazards considerations. Example (iii) relates to a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the Technical Specifications, that the analytical methods used to demonstrate conformance with the Technical Specifications and regulations are not significantly changed, and that the NRC has previously found such methods acceptable.

The proposed change to Figure 3.1.2 is similar to Example (iii), since this change directly results from the Waterford 3 Cycle 2 reload, and is bounded by the Cycle 1 CEA Ejection Analysis.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

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NRC Project Director: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 1, 1986.

Description of amendment request: The proposed changes would revise ACTION statement "b" to Technical Specification 3.3.3.10, "Radioactive Effluent Monitoring Instrumentation", and ACTION statements 28, 29 and 30 to Table 3.3–12 of that same Specification. The reason for the proposed changes is to clarify the wording of the ACTION statements such that there is no confusion as to what actions must be taken when the minimum channels OPERABLE requirements of Table 3.3–12 are not satisfied.

ACTION statement "b" will be clarified by providing a 30-day time period in which to restore any required monitoring instrumentation (listed in Table 3.3–12) to OPERABLE status or, if unsuccessful, to explain in the next Semi-annual Effluent Release Report why the instrument was not restored in the specified time. Additional clarification will be added by including a statement that allows releases to continue as long as the specified ACTIONS of Table 3.3–12 are continued. This change is consistent with the proposed Revision 3 to NUREG–0472 (Standard Radiological. Effluent Technical Specifications for PWRs) in which the intent is to eliminate the need for a Licensee Event Report (LER) simply because the required instrumentation could not be restored to OPERABLE status within the specified time. The concentration of radionuclides released will remain within the limits specified in Technical Specification 3.11.1 and 10 CFR Part 20 Appendix B because the proposed changes require that the ACTIONS specified in Table 3.3–12 prior to and during any liquid effluent releases are continued. This will ensure that the levels of radioactive materials in bodies of water in unrestricted areas will not result in exposures to any member of the general public in excess of 3 millirems to the total body or 10 millirems to any organ. This is in accordance with 10 CFR 50 Appendix I, Section II.A.

ACTION statements 28, 29 and 30 to Table 3.3–12 will be clarified by removing any reference to a specified time period and replacing it with a provision that best efforts be made to repair the required instrumentation. In addition, the last statement of ACTION statement 28 will be deleted since it is already clear that releases through a specific pathway may not occur if the two conditions of this ACTION statement can not be satisfied.

This change is being proposed in order to make the ACTION statements of Table 3.3–12 consistent with the proposed change to ACTION statement

"b". That is, since the proposed change to ACTION statement "b" will define the time limits and reporting requirements that must be adhered to whenever the minimum number of channels OPERABLE is less than that required by Table 3.3–12, there is no need to repeat them.

All proposed changes meet the intent of 10 CFR Part 50, Appendix A General Design Criteria 60, 63 and 64, which require a means to control and monitor all radiological storage areas and releases to the environment during normal operation, including anticipated operational occurrences and postulated accidents.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes that the proposed changes do not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of any accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) 1nvolve a significant reduction in the margin of safety. The basis for this proposed finding is given below.

(1) The proposed changes to the technical specifications are administrative and do not affect the manner in which the plant is operated. The changes are meant to define the time limits and reporting requirements that must be adhered to whenever the minimum channels OPERABLE requirements of Table 3.3–12 are not satisfied and therefore, do not have an effect on any of the accident analyses. Thus, the proposed changes will not involve a significant increase in the probability or consequences of any accident previously evaluated.

(2) The proposed changes are meant to clarify the ACTION statements of Technical Specification 3.3.3.10 and do not make any changes to the facility or to the operating procedures. Since the liquid radiological effluents have no new pathways to the environment, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The intent of the technical specification is to comply with General Design Criteria 60, 63 and 64 by requiring a means to monitor and control radiological storage areas and releases to the environment. Normally this is accomplished using on-line instrumentation; however, in the event that the required instruments are not in service, compliance with these criteria is ensured by following the appropriate ACTION statements. Since the proposed changes to the ACTION statements are administrative, the proposed changes do not involve a significant reduction in the margin of safety.

As the changes requested by the licensee's October 1, 1986 submittal satisfy the criteria of 50.92, it is concluded that: (1) The proposed changes do not constitute a significant hazards consideration as defined by 10 CFR 50.92; (2) there is reasonable assurance that the health and safety of the public will not be endangered by the proposed changes; and (3) this action will not result in a condition which significantly alters the impact of the station on the environment as described in the NRC Final Environmental Statement.

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NRC Project Director: George W. Knighton.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: April 3, 1981, as supplemented April 10, 1984 and September 12, 1985.

Description of amendment request: The amendment would revise the testing requirements for hydraulic shock suppressors (snubbers) and add requirements for mechanical snubber operability and testing. The proposed changes were made in response to an NRC request to upgrade the testing requirements for all safety-related snubbers to ensure a higher degree of operability. The changes involve: Clarifying the frequency for visual inspections, stating the requirements for functional testing of snubbers which visually appear inoperable, the inclusion of a formula for the selection of representative sample sizes, the clarifying of the testing acceptance criteria, and revising the method of snubber listing to incorporate more information.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (51 FR 7751). The examples of actions involving no significant hazards considerations include changes that constitute additional limitations or restrictions in the Technical Specifications. The proposed changes revise sections of the Technical Specifications related to the hydraulic snubbers to clarify requirements and include additional testing and incorporate both operability and testing requirements for mechanical snubbers. The requested changes upgrade the requirements for hydraulic snubbers and add requirements for mechanical snubbers.

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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed change adds additional and more restrictive limiting conditions for operation while the reactor is shut down and decay heat is being removed by the residual heat removal (RHR) system. The change provides the same seismic protection for the reactor cooling systems during shut down conditions as is provided during power operation. The remaining changes enclosed are administrative in nature and do not affect the design or operation of the Maine Yankee plant. Based on the above, the staff proposes to determine that the proposed amendment would involve no significant hazards considerations.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Attorney for licensee: J. A. Ritscher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Project Director: Ashok C. Thadani.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: October 16, 1985.

Description of amendment request: The proposed amendment would change Technical Specification 3.6 which pertains to the requirement for emergency diesel generator testing in the event that any component of one

train of the emergency core cooling system (ECCS) becomes inoperable. This proposed amendment to the Technical Specification would delete that requirement.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazard exists as stated in 10 CFR 50.92(2). 10 CFR 50.91 requires that at the time a licensee requests an amendment it must provide to the Commission its analysis, using the standards in 10 CFR 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the following analysis has been performed by the licensee:

We have performed an evaluation in accordance with 10 CFR 50.91(a)(1) to determine whether this proposed change involves a significant hazards consideration as defined by 10 CFR 50.92. A summary of our evaluation follows.

The accidents analyzed in the Maine Yankee Final Safety Analysis Report (FSAR) were evaluated. It was concluded that the proposed change would not cause a significant increase in the probability or consequences of the accidents analyzed in the FSAR. In fact, based on industry data and the Staff's evaluation in [Generic Letter 84–15], limiting the number of cold starts as proposed helps ensure higher diesel generator reliability by eliminating excessive testing that degrades diesel engines. The consequences of a loss of coolant accident are not affected by the proposed change since the reliability of the diesel generators continues to be adequately demonstrated through required testing.

The proposed change does not create the possibility of a different kind of accident from any previously analyzed since the elimination of excessive diesel generator testing minimizes diesel engine degradation.

Furthermore, the requirement to test, within two hours, the remaining ECCS component subsystem if the respective subsystem in the redundant train becomes inoperable and the inoperable system restored to operable status within 72 hours of discovering the nonconformance, maintains the margin of safety necessary to ensure that a reliable source of cooling water exists to mitigate the most limiting loss of coolant accident.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee in that: (1) The proposed change would not cause a significant increase in the probability or consequences of the accidents which were analyzed in the FSAR and the consequences of a loss of coolant accident are not affected by the proposed change because the reliability of the diesel generators continues to be demonstrated by other required testing; (2) the proposed change does not create the possibility of a different kind of accident from any previously analyzed because the elimination of some diesel generator testing lessens diesel engine degradation; and (3) the requirements to test, within 2 hours, the remaining ECCS component subsystem if the respective subsystem in the redundant train becomes inoperable, and to restore the inoperable system to operable status within 72 hours of discovery of the nonconformance, maintain the margin of safety which is necessary to ensure that a reliable source of cooling water exists to mitigate the most limiting loss of coolant accident. Therefore, based on this review, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Attorney for licensee: J.A. Ritscher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Project Director: Ashok C. Thadani.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: July 31, 1979, as amended on June 4, 1984, and September 15, 1986.

Description of amendment request: The proposed change in the Technical Specifications (TSs) would revise the licensee's earlier amendment requests of June 4, 1984 and July 31, 1979. The changes submitted on September 15, 1986 were requested as a result of the NRC staff's review of the licensee's earlier submittals. The licensee's original response of July 31, 1979 was in response to a NRC request to change the Peach Bottom Technical Specifications (TSs) in the area of containment purging dated November 29, 1978. The proposed changes include the following: (1) incorporation of a 90-hour purging restriction and definitions of conditions requiring no justification for purging, (2) limitations on the use of only one of the Standby Gas Treatment System (SGTS) trains during the power, startup, and hot shutdown, (3) operability requirements for SGTS whenever the purge system is in use, (4) additional action statement and surveillance requirements for the containment purge/vent isolation valves, and (5) correction of valve and penetration numbers involving purge/vent valves.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether license amendments involve significant hazards considerations by providing certain examples which were published in the **Federal Register** on March 6, 1986 (51 FR 7751). One of the examples (ii) of an action involving no significant hazards considerations is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications; for example, more stringent surveillance requirement. The changes proposed by this amendment request fit this example. The proposed amendment would add limits on the number of hours permitted for purging operations to 90-hours per year. The current TSs have no time limit on purging operations. The other changes identified above would also add additional limitations or requirements not presently found in the Peach Bottom TSs, and, therefore, constitute additional restrictions and controls. The above changes are consistent with example (ii) of the Commission's guidance discussed above.

On the basis of the above, the Commission has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for Licensee: Troy B. Conner, Jr., Esquire, 1747 Pennsylvania Avenue, NW. Washington, DC 20006.

NRC Project Director: Daniel R. Muller.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: January 30, 1984, as revised and supplemented September 23, 1985, July 3, August 22, and October 17, 1986.

Description of amendment request: The proposed amendment to the Technical Specification (TS) would make numerous changes to the reactor trip system (RTS) and engineered safety features actuation system (ESFAS) instrumentation requirements. More specifically:

(a) Operating License Section 2.C(3) and Specifications 2.2.1 and 3/4.3.1 would be editorially revised to remove unnecessary numerals from the

Specification numbers, and correct the referencing of Specification 3/4.3.2.

(b) Specification 2.2.1 Bases for the following instrumentation, would be editorially revised to clarify their function: Intermediate and Source Range Neutron Flux, Pressurizer Pressure and Water Level, Loss of Flow, Reactor Coolant Pump Buses, Turbine Trip and Auto Safety Injection Input.

Specification 2.2.1 Bases for the following instrumentation would be editorially revised to clarify the descriptions to be more consistent with their design and accident analysis assumptions: Power Range Neutron Flux, Steam Flow/Feedwater Flow Mismatch, Low Steam Generator (SG) Water Level, and Reactor Coolant Pump (RCP) Breaker Position.

(c) Specification 3.0.3 would be revised to reflect the time required to achieve a particular MODE of operation, consistent with that stated in the Westinghouse Standard Technical Specifications (STS).

(d) Table 3.3–1 Reactor Trip System Instrumentation would be revised to clarify the Action Statements, and to provide consistency with Action Statements stated in the STS and model technical specifications provided by the staff in a letter to the Westinghouse Owners Group (WOG) dated July 24, 1985; would revise and clarify the Action Statement for the following Functional Units to be consistent with the STS: Overtemperature delta-T, Overpower delta-T, Pressurizer Pressure-Low and Pressurizer Level-High Trips, and RCP Breaker Position Trip; would invoke "Limiting. Condition for Operation (LCO) 3.0.4 not applicable" for the following Functional Units, to be consistent with the STS: Power Range Neutron Flux Trips, Pressurizer Pressure-High, Loss of Flow, SG Level-Low Low, Steam Flow/Feedwater Flow Mismatch Coincident with Low SG Level, and RCP Trips; would provide minor editorial clarifications for Auto Safety Injection Input, Reactor Trip Breakers and Automatic Trip Logic, Turbine Trip-Turbine Stop Valve Closure, P–13 Interlock, and surveillance requirements for those RTS channels which are shared with ESFAS; and would revise the Applicable MODES for Manual Reactor Trip, Intermediate Range Neutron Flux, and Source Range Neutron Flux, to be consistent with the STS.

(e) Table 3.3–2 Reactor Trip System Response Times would be editorially revised to relocate all "not applicable" trips from the body of the Table, into a new Note. Also, the Overtemperature delta-T response time would be revised to more accurately reflect the value associated with the FSAR accident analysis.

(f) Table 4.3–1, Reactor Trip System Instrumentation Surveillance Requirements would be revised to change the Channel Functional Test from monthly to quarterly; Two footnotes would be added to clarify the change in surveillance frequency; the channel functional test requirements and MODE applicability for the Manual Reactor Trip would be revised to agree with the STS; the Channel Functional Test requirement for Auto Safety Injection Input would be revised to agree with the STS; the Channel Calibration requirements for Power Range Neutron Flux and Rates, Intermediate, and Source Range Neutron Flux would be revised to more closely agree with the STS. Also, Specification 4.0.4 would be made "not applicable" for Source Range Neutron Flux; the applicable MODES would be revised for the following Functional Units to make them consistent with the revised Table 3.3–1: Pressurizer Pressure-Low, Pressurizer Pressure-High, Pressurizer Water Level-High, Loss of Flow-Single Loop, Loss of Flow-Two Loops, SG Water Level Low-Low, Steam Flow/Feedwater Flow Mismatch and Low SG Water Level, Undervoltage-RCP, Underfrequency-RCP, and RCP Breaker Position Trip; the applicable MODES for the Reactor Trip Breaker and Automatic Trip Logic would be revised to agree with the STS. In addition, a note would be added which would clarify the source of the trip input; and the notation will be revised to more closely agree with the STS and with staff guidance, and to maintain consistency with the revised Table 3.3–1.

(g) TS 3/4.3.2 will be editorially revised to remove unnecessary numerals from the specification number.

(h) Tables 3.3–3, 3.3–4, 3.3–5 and 4.3–2 would be reformatted to specify requirements for the actuation logic first, followed by the inputs to the logic.

(i) Table 3.3–3, ESFAS Instrumentation would be revised to reflect reworded Action Statements which would be more consistent with the STS, and editorial changes which would improve readability. In addition, notes are added or revised to clarify the applicability of MODES, Action Statements, LCO 3.0.4, and clarification of the Safety Injection Function; the Action Statements for the Functional Units Injection and Containment Spray would be revised to maintain consistency with TS Specification 3.6.3.1; Containment Isolation will be revised to remove ambiguity of applicable circuits; Containment Ventilation Isolation will be revised to reflect the appropriate testing requirements; the applicability of MODES, LCO 3.0.4, and Action Statements for Steam Line Isolation, Turbine Trip and Feedwater Isolation, and Auxiliary Feedwater Pumps Start would be revised to agree with the STS; the description of the P–12 ESF Interlock would be revised to correct an error in the Condition and Setpoint; and a description of the P–4 and P–14 interlocks would be added for clarity and consistency.

(j) Table 3.3–4 would be editorially revised to be consistent with Table 3.3–3, and to clarify the requirements for Manual Initiation and Actuation Logic.

(k) Table 3.3–5 would be editorially revised to improve the clarity of the Table.

(l) Table 4.3–2 would be revised to reflect changes to Channel Functional Test frequencies and applicable modes which surveillance is required, that are consistent with the STS; and would clarify the Table by providing notes of explanation and by revising the Table to maintain consistency with the revised Table 3.3–3.

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 of 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 Commission has also provided guidance concerning the application of these standards by providing certain examples (March 6, 1986, 51 FR 7751).

Examples of amendments that are considered not likely to involve significant hazards considerations are "Example (i) A purely administrative change to the technical specifications: for example a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature," and "Example (vi) a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. . . ."

The proposed changes to: Operating License Section 2.C(3), Specifications

2.2.1, 3/4.3.1 and 3/4.3.2; Specification 2.2.1 Bases; Table 3.3–1 as related to editorial clarifications for Auto Safety Injection Input, Reactor Trip Breakers and Automatic Trip Logic, Turbine Trip-Turbine Stop valve closure, P–13 Interlock, and surveillance requirements for those RTS channels which are shared with ESFAS; Table 3.3–2; Table 4.3–1 as related to the clarification of change in surveillance frequency; Table 3.3–3 as related to reformatting, the addition or revision of Notes pertaining to the applicability of MODES, Action Statements, and LCO 3.0.4, changes for the description of the Safety Injection function, Action Statements for the Functional Units Safety Injection and Containments Spray, and changes to the description of Containment Isolation and Containment Ventilation Isolation, clarification of the P–12 ESF Interlock, and description of the P–4 and P–14 interlocks; Table 3.3–4; Table 3.3–5; and Table 4.3–2 as related to providing notes of explanation, and revisions to maintain consistency with the revised Table 3.3–3; are encompassed by Example (i) since all of the changes either provide editorial consistency within the TS, provide clarification or correct errors within the TS. As such the NRC staff proposes to determine that these requested changes do not involve a significant hazards considerations.

The remaining changes to: Specification 3.0.3, Table 3.3–1, Table 3.3–2, Table 3.3–3, Table 4.3–1 and Table 4.3–2 fall into the category of changes made to conform to the Westinghouse STS, or with WCAP–10271 "Evaluation of Surveillance Frequencies and Out-of-Service Times for the Reactor Protection Instrumentation System." The staff, in its evaluation of the STS Rev. 4 prior to its publication, reviewed the contents of the Technical Specification. The issuance of the Westinghouse STS Rev. 4 reflects the staff's conclusion that the STS revisions were acceptable, and that the basis for the acceptability was that the changes were clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. By letters dated February 21, 1985, and July 24, 1985, the staff issued its Safety Evaluation regarding the specified acceptability of WCAP–10271, and provided model technical specifications which were considered acceptable to the staff.

The licensee's remaining proposed TS changes are encompassed by Example (vi) since the proposed changes may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but yet the results of the changes are clearly within all acceptable criteria as specified in the Standard Review Plan because the proposed changes are consistent with those which have been previously determined to be acceptable by the staff. As such, the NRC staff proposes to determine that these requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Multnomah County Library, 801 SW 10th Avenue, Portland, Oregon.

Attorney for licensee: J.W. Durham, Senior Vice President, Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Project Director: Steven A. Varga.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: December 6, 1984, as supplemented October 20, 1986.

Description of amendment request: The proposed amendment requests a revision to the Technical Specifications (TS) pertaining to the following TMI Action Plan Items set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements" and as requested by the staff's Generic Letters 83–02 and 83–36.

I.A.1.3.1 Limit Overtime
I.A.1.3.2 Shift Manning
II.B.3 Postaccident Sampling Capability
II.F.1.1 Noble Gas Effluent Monitor
II.F.1.2 Sampling and Analysis of Plant Effluents
II.F.1.3 Containment High-Range Radiation Monitor
II.F.1.4 Containment Pressure Monitor
II.F.1.5 Containment Water Level Monitor
II.F.1.6 Containment Hydrogen Monitor
II.K.3.3 Reporting Safety Valve and Relief Valve Failures and Challenges
II.K.3.13 Reactor Core Isolation Cooling. (RCIC) Restart
II.K.3.22 RCIC Suction
II.E.4.2.7 Radiation Signal on Purge Valves

The proposed TS changes corresponding to the above items are as follows:

(a) I.A.1.3.1—Limit Overtime: The proposed changes define the limits on overtime work by plant staff members performing safety-related functions in accordance with the NRC Policy Statement on working hours (Generic Letter 82–12).

(b) I.A.1.3.2—Shift Manning: The proposed changes add an additional Senior Reactor Operator (SRO) to the shift crew to satisfy the minimum shift complement requirement.

(c) II.B.3—Post Accident Sampling: The proposed changes establish a program which requires implementation and maintenance of a post accident sampling capability.

(d) II.F.1.1—Noble Gas Effluent Monitor: The proposed changes define the instrumentation and calibration requirements for the noble gas effluent monitors and actions required when these operational limits are not met.

(e) II.F.1.2—Sampling and Analysis of Plant Effluents: The proposed changes establish a program which requires implementation and maintenance of a post accident sampling capability.

(f) II.F.1.3—Containment High-Range Monitor: The proposed changes define the instrumentation and calibration requirements for the containment high range monitor and actions required when these operational limits are not met.

(g) II.F.1.4—Containment Pressure Monitor: The proposed changes define the instrumentation and calibration requirements for the containment pressure monitor and also actions required when these operational limits are not met.

(h) II.F.1.5—Containment Water Level Monitor: The proposed changes define the instrumentation and calibration requirements for the containment water level monitor and also actions required when these operational limits are not met.

(i) II.F.1.6—Containment Hydrogen Monitor: The proposed changes provide limiting conditions for operation (LCOl and surveillance requirements for the Hydrogen/Oxygen Monitor.

(j) II.K.3.3—Reporting Safety Valve and Relief Valve Failures and Challenges: The proposed changes incorporate the requirement that an annual report of safety/relief valve challenges be submitted.

(k) II.K.3.13—RCIC Restart: The proposed changes incorporate the requirement for automatic restart of the RCIC system on low-low reactor water level following trip of the system on high reactor water level. Associated surveillance requirements are also proposed.

(l) II.K.3.22—RCIC Suction: The proposed changes incorporate the requirement for automatic switchover of the RCIC system suction from the condensate storage tank to the suppression pool when the condensate storage tank level is low. Associated surveillance requirements are also proposed.

(m) II.E.4.2.7—Radiation Signal on Purge Valves: The proposed changes incorporate the requirement that containment purge and vent isolation valves must close on a high radiation signal following a release of radioactive materials to the containment.

In addition to the TS changes described above, the proposed amendment adds a logic system functional test to the TS for the RCIC system and includes miscellaneous editorial changes which clarify and correct the TS.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7751) of actions likely to involve no significant hazards considerations. One of the examples relates to: "(i) A purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." Another example (ii) of actions involving no significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The modifications to Technical Specifications in response to the above TMI Action Items requirements, as well as the addition of a logic system functional test for the RCIC system, constitute additional limitations, restrictions or controls not presently included in the Technical Specifications. Therefore, these proposed changes are similar to the Commission's example (ii) above.

The various editorial revisions contained in the proposed amendment include corrections of typographical errors, changes in nomenclature, and other changes intended to achieve consistency within the Technical Specifications. Therefore, these changes are similar to the Commission's example (i) above. Therefore, since the application for amendment involves proposed changes similar to examples for which no significant hazards consideration exist, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Attorney for licensee: Mr. Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Daniel R. Muller.

Power Authority of the State of New York, Docket No. 50–333, James A FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: October 8, 1986.

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) to eliminate operability and testing requirements for the recirculation pump discharge bypass valves. These two valves and their associated piping are to be removed during an upcoming refueling outage.

General Electric, the reactor manufacturer, has recommended that certain BWRs, including FitzPatrick, remove the recirculation bypass valves and lines. Operating experience has shown that these valves are not required for normal or emergency operation of the recirculation system. Additionally, intergranular stress corrosion cracking (IGSCC) in the recirculation bypass lines has been determined to be a generic problem in BWRs similar in design to FitzPatrick. Removal of these lines will eliminate this source of potential cracking. Once the bypass valves are removed, the corresponding TS regarding operability and surveillance will no longer be needed.

Basis for proposed no significant hazards consideration determination: In accordance with the Commission's Regulations in 10 CFR 50.92, the Commission has made a determination that the proposed amendment involves no significant hazards considerations. To make this determination the staff must establish that operation in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The transient and accident analyses described in the Final Safety Analysis Report (FSAR) assume that either the recirculation discharge bypass valves are initially closed, or else close upon accident initiation. Removal of the bypass line and valves is consistent with these assumptions and therefore, does not increase the probability or consequences of an accident previously evaluated. Because, the bypass valves are not required for either normal or emergency operation of the recirculation system, removal of the bypass valves and lines will not introduce any new modes of failure. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident. Removal of the bypass piping will eliminate the possibility of IGSCC in these lines and thus will provide greater assurance of maintaining the integrity of the reactor coolant boundary. Therefore, the margin of safety will be increased rather than reduced.

Because, it has been established that plant operation in accordance with the proposed amendment would satisfy the three above stated criteria the staff has, therefore, made a proposed determination that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Attorney for licensee: Mr. Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Daniel R. Muller.

Public Service Electric & Gas Company, Docket 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: September 12, 1986.

Description of amendment request: In a letter dated September 12, 1986, supplemented and revised by letter dated September 22, 1986, the licensee requested an amendment to Hope Creek Generating Station Technical Specifications (TS) 3/4.3.7.9 and 3/4.3.7.10. Technical Specifications 3/4.3.7.9 and 3/4.3.7.10 address radioactive liquid effluent monitoring instrumentation and radioactive gaseous effluent monitoring instrumentation, respectively.

The ACTION statements of these TS require that with less than the minimum number of effluent monitoring instrumentation channels operable, effluent releases via the pathway may continue for up to 30 days, provided that alternative measurement techniques are employed. After 30 days, the TS calls for terminating releases, requiring the plant to be shut down. The licensee's requested TS amendment would permit releases via the pathway indefinitely, provided that alternative techniques are employed. The licensee's proposed TS amendment is consistent with the intent of the TS, namely that alternative monitoring techniques are used to assess the effluents should the primary means not be available. Additionally,

the proposed TS change would permit the licensee to change the effluent monitoring instrumentation channel Alarm/Trip setpoint to an acceptably conservative value, should the setpoint be discovered to be nonconservative. In all cases, should the instrumentation be inoperable for longer than 30 days, an explanation for its inoperability will be included in the next Semiannual Radioactive Effluent Release Report.

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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee responded to these standards as follows:

(1) This change in effluent monitoring instrumentation technical specifications allows the continued use of an effluent pathway while an instrument that monitors that pathway may be inoperable. Present wording of the specification allows continued use of the affected pathway for up to 30 days if prescribed sampling and analyses are performed and requires a report if the inoperable instrumentation is not restored in that time. Allowing continued use of the affected pathway beyond 30 days will not significantly increase the probability or consequences of an accident previously evaluated since prescribed sampling and analysis of any discharges via that pathway would be continued while the monitoring instrumentation is inoperable.

(2) The possibility for any previously unanalyzed accident is not created by this change since there is no physical change to any plant fission product boundary, safeguards equipment, or any procedure.

(3) While there may be some reduction in the plant's ability to make continuous, instantaneous evaluations of discharge levels with a monitoring instrument inoperable beyond the present 30 day limit, there are sampling and calculational methods available for making those determinations which provide adequate assurance that no margin of safety is significantly reduced by implementing this change.

Based on the above discussion, the staff agrees with the licensee's findings of no significant hazards consideration associated with the proposed amendment. Accordingly, the staff proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 South Broadway, Pennsville, New Jersey 08070.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: E. Adensam.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: October 15, 1986.

Description of amendment request: The review and audit section (6.7) of the technical specifications (TS) requires the licensee to have an independent audit and review group known as the "Nuclear Safety Audit and Review Board (NSARB)." The NSARB provides an independent review and audit of activities dealing with plant operations, engineering design changes, radiological safety, and quality assurance practices. The licensee proposes to increase the membership of the plant staff to the NSARB from two to three members and to allow the three members to vote. A restriction would be imposed to the quorum requirements for the board to assure that plant personnel would not make up a majority of the board members.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of standards for determining if a no significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards consideration (51 FR 7751). One of these examples (i) is a purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The proposed change consists of clarification and correction of errors due to changes in requirements for an independent review committee specified in ANSI/ANS 3.2 (1982); a standard found acceptable by the Commission. The proposed change will strengthen the review capability of the board by involving experienced members of the plant staff while insuring the independence of the board consistent with the provision of ANSI/ANS 3.2. The proposed change is administrative in nature and in no way relaxes the intent of the TS or reduces the margin of safety. As a consequence of the above, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Harry Voigt, LeBoeuf, Lamb, Leiby and McRae, Suite 1100, 1333 New Hampshire, NW., Washington, DC 20036.

NRC Project Director: George E. Lear, Director.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: October 24, 1986.

Description of amendment request: The licensee plans to replace the Analog Rod Position Indication (ARPI) system with a Westinghouse Microprocessor Rod Position Indication (MRPII system. The ARPI system is being replaced because the system requires a significant effort to maintain alignments, the aging system is prone to component failures, and spare parts are difficult to obtain. In addition, the replacement of the ARPI system will resolve human engineering discrepancies identified during the detailed control room design review; a licensing action of NUREG–0737 (Item 1.D.1.1).

As a result of the replacement of the ARPI system with the MRPI system, the licensee has proposed changes to the technical specification (TS) that (1) replaces the references to the ARPI system with references to the MRPI system, (2) clarifies the requirements related to the indicated positions versus demand positions, (3) allows the use of the process plant computer system as a backup to the MRPI cathode-ray tube (CRT) if the CRT should become inoperable, (4) remove the calibration requirement which is no longer necessary when the new system is operational, and (5) modify the rod movement test.

Basis for proposed no significant hazards consideration determination: This proposed change does not involve a significant hazards consideration because operation of R. E. Ginna Nuclear Power Plant in accordance with this change would not:

(1) Significantly increase the probability or consequences of an accident previously evaluated. The

MRPI system will indicate rod misalignment that bounds all potential accidents previously analyzed. The MRPI system has a faster response time than the existing ARPI system which tends to increase the level of safety.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The MRPI system provides the same interfaces as the existing ARPI system which results in having the same effects as the existing system during transients as well as during previously analyzed accident conditions. Furthermore, failure of the MRPI system causes loss of indication which is consistent with a failure of the existing system.

(3) Significantly reduce the margin of safety as defined in the basis for any technical specification. There is no reduction in the margin of safety since the existing bounds used in the safety analysis for the ARPI system are directly applicable to the MRPI system.

Based on our evaluation of the proposed change as summarized above, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Harry Voigt, LeBoeuf, Lamb, Leiby and McRae, Suite 1100, 1333 New Hampshire, NW., Washington, DC 20036.

NRC Project Director: George E. Lear, Director.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: October 8, 1986.

Description of amendment request: The proposed amendment would remove from the Technical Specifications (TSs) the tabular listing of snubbers, as suggested. by Generic Letter 84–13 dated May 3, 1984.

Basis for proposed no significant hazards consideration determination: Generic Letter (GL) 84–13, May 3, 1984, "Technical Specifications for Snubbers" concludes that the tabular listing of snubbers included in Technical Specifications may be deleted by any licensee submitting a license amendment.

The removal of the tabular listing of snubbers from the Technical Specifications is of an administrative nature and does not in itself affect plant design or operation, involve modifications to plant equipment, or make changes that would affect plant safety analyses. Snubber operability and surveillance standards will remain in the Specifications. As part of the proposed amendment, the licensee has revised the wording in the snubber-related sections to conform to the Standard Technical Specifications and to the recommendations contained in GL 84–13. Additionally, the NRC staff has determined that inclusion of snubber listings in Technical Specifications is not necessary because any changes in snubber quantities, types, or locations are controlled by analysis methods approved by the NRC and under the provisions of 10 CFR 50.59 as changes to the facility.

The proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the removal of the snubber listing does not impact the existing snubber operability requirements.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no new mode of plant operation nor does it require physical modification to the plant.

(3) Involve a significant reduction in the margin of safety because it does not involve changes in plant design or operation or affect plant safety analyses. The purpose of the change is to conform to the NRC guidance in GL 84–13.

Based on the above, the Commission proposes to determine that the application for amendment does not involve a significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814.

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813.

NRC Project Director: John F. Stolz.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: August 2, 1985, supplemented September 11, 1986.

Description of amendment request: The amendment would change the qualification requirement contained in Technical Specification 6.5.3.1.e for individuals responsible for reviews performed in accordance with Technical Specifications 6.5.3.1.a through 6.5.3.1.d. The qualification requirement will become Section 4 of ANSI 18.1, 1971 instead of Section 4.4. This proposed change is being requested to correct inadequacies in the current Technical Specification wording which were identified by the staff during an inspection at the plant.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7751) of actions likely to involve no significant hazards considerations. One of these, example (ii), involving no significant hazards considerations is ". . . a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement." The proposed change from the qualification requirement of Section 4.4 to all of Section 4 of ANSI 18.1, 1971, is similar to this example.

Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

NRC Project Director: Lester S. Rubenstein.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: August 25, 1986, supplemented October 15, 1986.

Description of amendment request: The licensee has determined that some organization changes are required to enhance managerial accountability of the various groups in the Nuclear Operations Department. In addition, several editorial changes to Technical Specification (TS) Figures 6.2–1 and 6.2–2 are baing made to reflect correct titles and functional alignments. The title of Senior Vice President, Power Operations is changed to Senior Vice President, Nuclear Power, Construction and Production Engineering.

In the Nuclear Services Division, three group manager positions have been combined into two, resulting in greater efficiencies and tighter spans of control. Regulatory and Support Services, and Nuclear Education and Training are combined under one group manager, that of Nuclear Regulatory and

Developmental Services. This position has the Manager, Nuclear Licensing; Manager Corporate Health Physics and Environmental Programs; Manager, Nuclear Operations Education and Training; and Manager, Nuclear Technical Education and Training reporting to him. There are no changes under Technical Services.

The Quality Services Organization now includes the Procurement Group of the Nuclear Operations Department. The title of Quality Services is changed to Quality and Procurement Services, now headed by a director who has the Manager, Materials and Procurement; Manager, Quality Assurance; and Manager, Quality Control reporting to him.

The Security Organization has been reporting administratively offsite and functionally onsite to the Group Manager, Technical and Support Services. This organization now reports administratively and functionally to Technical and Support Services. The Regulatory Compliance Group will now report offsite to the Manager, Nuclear Licensing in the Nuclear Regulatory and Developmental Services Organization. Functionally, this group will remain at the Station and fully support the Director of Nuclear Plant Operations.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7751) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and determined that should this request be implemented, it will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because overall commitments and functional capabilities are not reduced, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because no organizational responsities are being eliminated. Also, it will not (3) involve a significant reduction in a margin of safety because organizational control and accountability are enhanced by these controls. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

NRC. Project Director: Lester S. Rubenstein.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: October 22, 1986.

Description of amendment request: The amendment request withdrew a request dated July 26, 1985, as supplemented December 5, 1985, which was noticed on May 21, 1986 (51 FR 18696). The proposed amendment would revise the Technical Specifications (TSs) to reflect administrative and organizational changes at Toledo Edison and an effort to revise the TSs to be more consistent with Babcock and Wilcox (B&W) Standard TSs, NUREG–0103, Revision 4. These proposed changes include revision of the reporting and advising relationship between the Company Nuclear Review Board (CNRB) and the President and Chief Operating Officer and Senior Vice President, Nuclear; and revision of the composition of the Station Review Board (SRB) to expand the range of expertise and reflect individual and/or group responsibility, organization and title changes. In addition, the proposed amendment would revise several sections of the TSs to be consistent with B&W Standard TSs, and revise organizational position titles and position responsibilities to reflect the current organization.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidelines concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7750). One of these examples (i) of actions involving no significant hazards considerations relates to amendments of a purely administrative change to TSs; for example, a change to achieve consistency throughout the TSs, correction of an error, or a change in nomenclature. The proposed revision concerns changes in position titles to reflect the current organization, and changes to make the TSs consistent with Standard B&W TSs, which match this example of an administrative change to the TSs. Furthermore, since the proposed amendment would not involve a modification to the way the facility is operated or a change to plant equipment, the proposed amendment meets the three criteria, specified in 10 CFR 50.92 and stated earlier in this notice, for not involving a significant hazards consideration.

Therefore, the Commission's staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: August 26, 1986.

Description of amendment request: By letter dated August 26, 1986, the licensee, Vermont Yankee Nuclear Power Corporation, submitted a proposed license amendment for NRC review and approval which would revise the Vermont Yankee Technical Specifications with respect to certain requirements. These changes would:

(1) Provide actual instrument numbers rather than an undefined number, and make the trip setting the same for common instruments which provide inputs to different systems.

(2) Provide revised calibration requirements for the Reactor Vessel Shroud instrumentation input to the Emergency Core Cooling Systems to reflect the replacement of level and pressure switches with analog loops.

(3) Delete a reference note from the Trip System logic tests for systems for which the note is inapplicable.

(4) Revise the Limiting Condition for operation with one of the Pressure Suppression Chamber—Reactor Building Vacuum Breaker Systems out of service, by revising the wording to better reflect the intent of the requirements to preserve both the containment isolation and vacuum relief functions.

Basis for proposed no significant hazards consideration determination: The licensee has evaluated the proposed change against the standards in 10 CFR 50.92 and has determined that the proposed change 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 type of accident, or (3) Involve a significant reduction in a margin of safety. The licensee's determination is based on the following:

1. The proposed changes revise instrument tag numbers which will improve the clarity of the Technical Specifications. Revisions to the trip level

setpoints reflect the replacement of level and pressure switches with analog instruments. This change improves the consistency of the Technical Specifications for instruments common to more than one system. Replacement of switches with more reliable instrumentation improves plant reliability and does not change the design basis, protective function, redundancy, or logic of the original system. As such, this change does not impact the probability or consequences of any accident previously considered. Further, no change in any plant safety margin is required for the reasons stated above.

2. The proposed changes revise the surveillance and calibration requirements to reflect the replacement of level and pressure switches with analog instrumentation. These modified requirements are consistent with those previously approved for similar analog instrumentation utilized at Vermont Yankee. The previous requirement of once every three months was appropriate for level and pressure switches. The revised requirement of once every operating cycle is appropriate for the new analog loops because of the reduced setpoint drift. As such, there is no impact in the probability or consequences of accident previously evaluated by this change since it does not involve safety system or primary system boundaries. Similarly, no kinds of accident involving safety-related systems are created by this change, nor are any changes required in plant operating or design safety margins.

3. The proposed changes delete a reference note in order to improve and simplify the Technical Specifications. Because the note only applies to those which have pilot valves, reference to it is being deleted from those systems which do not have pilot valves. The deletion of an inapplicable reference to a table notation has no bearing on any accident previously evaluated, nor does it create the possibility of a new or different kind of accident. Similarly, no changes in any plant operating or design bases safety margins are required by the deletion.

4. A change is made to the Limiting Conditions for Operation (LCO) of the pressure suppression Chamber-Reactor Building vacuum breakers to better reflect the intent of the requirements. The previous LCO required locking the vacuum breaker closed if it was inoperable. The revised LCO specifies that a valve in the failed line must be verified to be in the isolated condition allowing greater flexibility in meeting the intent of the Technical Specification requirements. The new requirement meets the intent to isolate the failed vacuum breaker and also improves consistency between LCOs in the Technical Specifications. Because these changes provide greater flexibility in meeting an existing requirement and improve consistency with other containment isolation requirements in the Technical Specifications, the probability or consequences of any accident previously evaluated is not significantly increased. Additionally, the possibility of a new or different kind of accident from any accident previously evaluated is not created and no sigificant reduction in a margin of safety is involved.

Based on the above, the NRC staff agrees with the licensee's evaluation and proposes to determine that the proposed change involves no significant hazard considerations.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: John A. Ritscher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: Daniel R. Muller.

Washington Public Power Supply System, Docket No. 50–397, WNP–2, Richland, Washington

Dates of amendment request: June 13, June 18, 1985, and October 7, 1986.

Description of amendment request: This proposed amendment, if approved, would revise the WNP–2 Technical Specifications by removing a listing of containment penetration fuses and a surveillance requirement to test these fuses functionally on a rotating basis.

The fuses are listed in Table 3.8.4.2–1, Primary Containment Penetration Conductor Overcurrent Protective Devices, of the Technical Specifications. The intent of this technical specification is to assure primary containment electrical penetrations survive an electrical fault by a fuse or circuit breaker opening prior to threatening the design capability of the penetration. The fuses are sized to protect the equipment being supplied while the design rating of the penetration is in all cases higher; consequently, an equipment load and related fuse can be increased without challenging the design rating of the penetration. Containment penetration protection and safety are assured by the Supply System's formal design process that includes evaluations to insure that the design rating for the penetrations is not exceeded. As a result, the listing of fuse sizes for the containment penetration provides no safety assurance but imposes an unnecessary administrative burden on both the Supply System and the Commission.

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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

It has been determined that the requested amendment does not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated because any change in overload current protection characteristics will be effected within the penetration design rating thus the accident probability and consequences will remain within the bounding and previously evaluated accident event; or (2) create the possibility of a new or different kind of accident than previously evaluated because removing the listing of the fuses from the Technical Specifications does not remove the protection provided the penetration as the fuses will still be in place and any changes in fuse size will be controlled by the licensee's formal design process to assure adequate protection of the penetrations; therefore, no new accident scenarios are identified; or (3) involve a significant reduction in a margin of safety because the sizing of fuses within the design margin does not encroach on the overall margin of safety.

Accordingly, the Commission proposes to determine that the requested change to the WNP–2 Technical Specifications involves no significant hazards considerations.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for the Licensee: Nicholas Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street NW, Washington, DC 20036.

NRC Project Director: E. Adensam.

Yankee Atomic Electric Company, Docket No. 50–029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: October 9, 1986.

Description of amendment request: The proposed changes to the TS would revise Table 4.3–1 regarding surveillance requirements for power range and intermediate power range neutron flux channels.

The reactor protection system logic for high neutron flux levels has two possible settings, a high power set point, used for full power operations, and a low power set point, used for reactor operation with power below 15 Mwe (about 8% of rated power). Tests of the low power setting during power operation would cause a reactor trip. The proposed change would clarify that channel calibration of these channels will be performed on a refueling interval schedule rather than quarterly and that the monthly functional test of the channels will only include those parts of the test that can be performed at power, and thus they would exclude low set point calibration.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee states the following with respect to these three factors:

This change has been evaluated and determined to involve no significant hazards consideration. The proposed amendment does not:

Involve a significant increase in the probability or consequences of an accident previously evaluated. The channels will continue to be maintained in an operable condition by the daily monitoring and monthly functional check. This change is a clarification of practice and does not alter the safety analysis.

Create the possibility of a new or different kind of accident from any accident previously evaluated. This change is a clarification of the technical specification requirements and does not alter plant operations; therefore, it does not create the possibility of a new or different kind of accident.

Involve a significant reduction in a margin of safety. This change provides wording that is closer to the [Standard Technical Specifications] STS, but remains plant specific. Our use of the Channel Functional Test provides assurance of channel operability that is at least as good as that provided by the STS. Since this change provides clarification and not a change in practice there is not a significant reduction in the margin of safety.

Based on these findings, the licensee concluded that the proposed change does not involve a significant hazards consideration. The staff has reviewed the licensee's determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the proposed amendment 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 02110.

NRC Project Director: George E. Lear.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: October 20, 1986.

Brief description of amendment: The amendment would delete the operability requirement for containment cooler V 4A.

Date of publication of individual notice in **Federal Register:** October 31, 1986 (51 FR 39831).

Expiration date of individual notice: December 1, 1986.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: September 2, 1986 as amended on October 4, 13, and 24, 1986.

Brief description of amendment request: The proposed amendment would change the Grand Gulf Nuclear Station, Unit 1 (GGNS) facility operating license NPF–29 and pages 6–3 and 6–9 of the facility Technical Specifications to reflect the transfer of the authority to control and operate the GGNS from Mississippi Power and Light Company to Middle South Energy, Inc. (now renamed System Energy Resources, Inc.).

Date of publication of individual notice in **Federal Register:** November 3, 1986 (51 FR 39927).

Expiration date of individual notice: December 3, 1986.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these

amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Carolina Power and Light Company, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: August 13, 1986.

Brief description of amendment: The amendment deletes Section 5.3.1.6 of the Technical Specifications to be consistent with the Operating License Section 2.C.

Date of issuance: October 27, 1986.

Effective date: October 27, 1986.

Amendment No.: 104.

Facility Operating License No. DPR–23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 24, 1986 (51 FR 33944). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 27, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Carolina Power and Light Company, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: April 2, 1986.

Brief description of amendment: The amendment revises the Technical Specifications to incorporate a corporate reorganization, staff qualification changes, position title changes, plant nuclear safety committee membership changes, and plant modification approval authority changes.

Date of issuance: October 28, 1986.

Effective date: October 28, 1986.

Amendment No.: 105.

Facility Operating License No. DPR–23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 13, 1986 (51 FR 28993). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 28, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Carolina Power and Light Company, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: September 24, 1985.

Brief description of amendment: The amendment revises the Technical Specifications to remove redundant terms, delete obsolete requirements and to correct errors in terminology.

Date of issuance: October 28, 1986.

Effective date: October 28, 1986.

Amendment No.: 106.

Facility Operating License No. DPR–23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 4, 1985 (50 FR 49782). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 28, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Carolina Power and Light Company, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: July 17, 1984, as supplemented February 5, 1986.

Brief description of amendment: The amendment revises the Technical Specifications with regard to containment integrated leak rate test duration.

Date of issuance: October 28, 1986.

Effective date: October 28, 1986.

Amendment No.: 107.

Facility Operating License No. DPR–23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 21, 1984 (49 FR 45944). The February 5, 1986, submittal supplemented the Bases section of the Technical Specifications and therefore, did not change the determination of the initial **Federal Register** notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 28, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Carolina Power and Light Company, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: January 8, 1986.

Brief description of amendment: The amendment revises the Technical Specification to reduce the reporting requirements for primary coolant iodine spiking from a short-term report to an item included in the Annual Report.

Date of issuance: October 28, 1986.

Effective date: October 28, 1986.

Amendment No.: 108.

Facility Operating License No. DPR–23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 4, 1986 (51 FR 20368). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 28, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Commonwealth Edison Company, Docket No. 50–454, Byron Station, Unit No. 1, Ogle County, Illinois

Date of applications for amendments: July 30, 1986 and August 5, 1986.

Brief description of amendments: The amendment approves changes to the Technical Specifications that (1) revise the end of cycle interpolation value for target flux difference, (2) delete exact grid plane locations, (3) delete maximum total weight of uranium, (4) delete minimum level, but retain minimum gallons for Diesel Fuel Supply System day tank, and (5) delete "during shutdown" for certain 18-month surveillance of seismic monitoring instrumentation.

Date of issuance: October 29, 1986.

Effective date: October 29, 1986.

Amendment No.: 4.

Facility Operating License No. NPF–37: Amendments revised the Technical Specifications.

Date of initial notices in **Federal Register:** September 24, 1986 (51 FR 33945) and September 10, 1986 (51 FR 32265).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 29, 1986.

No significant hazards consideration comments received: No

Local Public Document Room location: Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois.

Commonwealth Edison Company, Docket No. 50–254, Quad Cities Nuclear Power Station, Unit 1, Rock Island County, Illinois

Date of application for amendment: August 26, 1986.

Brief description of amendment: Revises operating limit minimum critical power ratio (MCPR) for fuel in Cycle 9, and deletes MCPR for fuel types no longer in use.

Date of issuance: October 28, 1986.

Effective date: October 28, 1986.

Amendment No.: 97.

Facility Operating License No. DPR–29. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 24, 1986 (51 FR 33946). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 28, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Moline Public Library, 504 17th Street, Moline, Illinois 61265.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: August 29, 1986.

Brief description of amendment: The license amendment adds a second note of clarification to the definition of containment integrity in Technical Specification 1.8.2.b to permit normally closed manual isolation valves SI–V–863 A, B, C, and D to be opened for periodic surveillances. In addition, the amendment permits valve SA–V–413 to be opened. as required, to assure the operability of the containment continuous leak monitoring system and to allow for additional infrequent maintenance activities when containment integrity may be required.

Date of issuance: October 30, 1986.

Effective date: October 30, 1986.

Amendment No. 86.

Facility Operating License No. DPR–61. Amendment revised the technical specifications.

Date of initial notice in **Federal Register:** September 24, 1986 (51 FR 33947). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 30, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: August 20, 1979 and subsequently revised in mutual agreement between the Nuclear Regulatory Commission's staff and Consumers Power Company's staff. The amendment differs from the application in that the requirements to conduct an internal visual inspection and to verify adequate electrical resistance to ground as required in the existing Technical Specifications are retained.

Brief description of amendment: The amendment revised the surveillance requirements for the Westinghouse Electric Hydrogen Recombiners contained in Table 4.2.2, "Minimum Frequency for Equipment Tests", to those recommended for Westinghouse Electric Hydrogen Recombiner's in NUREG–0212, Revision 2, "Combustion Engineering Standard Technical Specifications."

Date of issuance: November 5, 1986.

Effective date: November 5, 1986.

Amendment No. 99.

Provisional Operating License No. DPR–20. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 21, 1983 (48 FR 56501). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 5, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Duke Power Company, et al., Docket Nos. 50–4.13 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: June 6, 1986, as supplemented September 9, 1986.

Brief description of amendments: The amendments modify the Technical Specifications to permit installation of a Boron Dilution Mitigation System.

Date of issuance: October 24, 1986.

Effective date: October 24, 1986.

Amendment Nos.: 17 and 7.

Facility Operating License Nos. NPF–35 and NPF–52. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 13, 1986 (51 FR 28997). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 24, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: August 4, 1986, and supplemented August 22, September 17, and October 6, 1986.

Brief description of amendments: The amendments modify, for one time only for each Unit, Technical Specification Table 3.7–1 related to the maximum allowable power range neutron flux high setpoint with inoperable steam line safety valves during four loop operation.

Date of issuance: October 28, 1986.

Effective date: October 28, 1986.

Amendment Nos.: 18 and 8.

Facility Operating License Nos. NPF–35 and NPF–52. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 10, 1986 (51 FR 32266). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 28, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: August 14, 1986, as supplemented October 6, 1986.

Brief description of amendment: This amendment extends the surveillance interval for reactor vessel internals vent valves (RVVVs) from once per 18 months to once per fuel cycle for Cycle 6 only. The licensee's request for a permanent extension of the surveillance

interval for the RVVVs is being considered separately. Other changes requested in the August 14, 1986, request were approved by Amendment No. 93 dated October 21, 1986.

Date of issuance: November 7, 1986.

Effective date: November 7, 1986.

Amendment No.: 94.

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 19, 1986 (51 FR 33322). Since the initial notice, the licensee submitted a supplement dated October 6, 1986, which responded to the Commission's request for additional information. The information did not change the original application in any way, and therefore did not warrant renoticing.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 7, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida 32629.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-321, Edwin I. Hatch Nuclear Plant, Unit No. 1, Appling County, Georgia

Date of application for amendment: March 5, 1979, as supplemented February 7, 1984.

Brief description of amendment: The amendment revised the Hatch Unit No. 1 Technical Specifications to reflect provisions of an updated containment leak rate test program.

Date of issuance: October 30, 1986.

Effective date: October 30, 1986.

Amendment No.: 131.

Facility Operating License No. DPR-57. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 25, 1984 (49 FR 17860). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 30, 1986, and Environmental Assessment dated October 7, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of amendment request: July 18, 1986.

Description of amendment request: The amendment (1) revises allowable values to provide for the use of Rosemount, as well as Barton, transmitters for certain instrumentation channels associated with the Analog Transmitter Trip System (ATTS); (2) provides administrative clarifications; (3) revises allowable values for instruments which actuate on high drywell pressure; and (4) lowers the core spray and residual heat removal low pressure coolant injection low reactor pressure injection permissive setpoints to allow for increased flexibility in the use of Rosemount transmitters for this trip function.

Date of issuance: November 6, 1986.

Effective date: November 6, 1986.

Amendment No.: 67.

Facility Operating License No. NPF-5: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 10, 1986 (51 FR 32268). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 6, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia

GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: June 1, 1979, revised October 22, 1984 and August 13, 1986 (TSCR 69).

Brief description of amendment: Authorizes changes to the Appendix A Technical Specifications (TS) to incorporate in the TS, the radiological effluent technical specifications (RETS) required by Appendix I to 10 CFR Part 50. These changes are (1) to revise TS Section 1.0, Definitions; TS Sections 3.1 and 4.1, Protective Instrumentation; TS Sections 3.6 and 4.6, Radioactive Effluents; TS Section 6.0, Administrative Controls; and (2) to add the new TS Sections 3.14 and 4.14, Solid Radioactive Waste; TS Sections 3.15 and 4.15, Radioactive Effluent Monitoring Instrumentation; and TS Section 4.16, Radiological Environmental Surveillance.

Date of issuance: October 6, 1986.

Effective date: 45 days after date of issuance.

Amendment No.: 108.

Provisional Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 27, 1985 (50 FR 7989). Since the initial notice, the licensee supplemented the application with a submittal dated August 13, 1986. This submittal contained minor clarifications and/or corrections to the proposed RETS. The August 13, 1986 changes do not affect the initial no significant hazards consideration determination nor the substance of the amendment. Therefore, renoticing of the proposed amendment was not warranted. A detailed discussion of these changes and the Commission's related evaluation of this amendment are contained in a Safety Evaluation dated October 6, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: September 11, 1986 (TSCR 140)

Brief description of amendment: Authorizes two changes to Section 4.4, Emergency Cooling, of the Appendix A Technical Specifications (TS), which lists the surveillance requirements and the frequency of surveillance for the reactor emergency cooling systems. This amendment changes the stated frequency and pressure conditions for the Automatic Depressurization System (ADS) valve operability test in item 4.4.B.1 of Section 4.4 to after each refueling outage and at system operating pressure prior to exceeding 5 percent power. This change was to clarify the surveillance requirements of ADS valve operability in the TS.

Date of issuance: October 27, 1986.

Effective date: October 27, 1986.

Amendment No.: 109.

Provisional Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 24, 1986 (51 FR 33950). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated October 27, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: September 5, 1986 (TSCR 153).

Brief description of amendment: Authorizes a revision to the footnote, marked with an asterisk "*", to Table 3.1.1, Protective Instrumentation Requirements, of the Appendix A Technical Specifications (TS). The licensee can, with this change, have one channel of a protective instrument function made inoperable for up to 2 hours to conduct tests and calibrations of the protective instrumentative channels in accordance with the TS, without tripping the channel's associated trip system.

Date of issuance: October 27, 1986.

Effective date: October 27, 1986.

Amendment No.: 110.

Provisional Operating License No. DPR–16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 17, 1986 (51 FR 32980). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated October 27, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: June 17, 1986, as supplemented September 17 and October 13, 1986 (TSCR 149).

Brief description of amendment: The amendment authorizes changes to Section 2.3, Limiting Safety System Settings, and to Section 3.10, Core Limits, of the Appendix A Technical Specifications (TS) to account for the Operating Cycle 11 reload. The changes to Section 2.3 increase (1) the neutron flux scram setting for the average power range monitors (APRM) and (2) the neutron flux control rod block setting. The changes to Section 3.10 increase the minimum critical power ratio (MCPR) limits and revise the maximum allowable average planar linear heat generation rate (MAPLHGR) for five loop and four loop operation in Figures 3.10–4 and 5, respectively. The changes to the figures replace the MAPLHGR for the existing fuel type P8DRB265L by that for the new fuel type P8DRB299. The MAPLHGR for the existing fuel types P8DRB239 and P8DRB265H in Figures 3.10–4 and 3.10–5 are not being changed by this amendment. Included with these changes are changes to the Bases for TS Sections 2.3 and 3.10.

Date of issuance: October 27, 1986.

Effective date: October 27, 1986.

Amendment No.: 111.

Provisional Operating License No. DPR–16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 16, 1986 (51 FR 25769). The September 17 and October 13, 1986 submittals provided clarifying information which did not change the substance of the application or the findings of the initial **Federal Register** notice.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated October 27, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: September 11, 1986 (TSCR 147).

Brief description of amendment: Authorizes changes to the Appendix A Technical Specifications (TS). These changes (1) increase the high drywell pressure trip setpoint limit to 3.5 psig and (2) add a bypass to the high flow trip of the "B" Isolation Condenser when initiating the alternate shutdown. These are changes to Table 3.1.1, Protective Instrumentation Requirements, and the Bases for Section 3.1, Protective Instrumentation, of the TS.

Date of issuance: October 31, 1986.

Effective date: October 31, 1986.

Amendment No.: 112.

Provisional Operating License No. DPR–16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 17, 1986 (51 FR 32980). The Commission's related evaluation of this amendment and the response to the State of New Jersey, Bureau of Radiation Protection's comments are contained in a Safety Evaluation dated October 31, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Kansas Gas and Electric Company, Kansas City Power and Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of application for amendment: August 13, 1986

Brief description of amendment: The amendment modifies the Technical Specifications to delete the maximum uranium weight per fuel rod value.

Date of issuance: October 30, 1986.

Effective date: October 30, 1986.

Amendment No.: 3.

Facility Operating License No. NPF–42. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 10, 1986 (51 FR 32270). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 30, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas, and Washburn University School of Law Library, Topeka, Kansas.

Kansas Gas and Electric Company, Kansas City Power and Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of application for amendment: April 15, 1986, as supplemented July 29, 1986.

Brief description of amendment: The amendment permits licensed activities to be under the control of the Wolf Creek Nuclear Operating Corporation.

Date of issuance: November 4, 1986.

Effective date: January 1, 1987.

Amendment No.: 4.

Facility Operating License No. NPF–42. Amendment revised the Operating License and the Technical Specifications.

Date of initial notice in **Federal Register:** August 13, 1986 (51 FR 29002). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 4, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200

Commercial Street, Emporia, Kansas 66801 and Washburn School of Law Library, Topeka, Kansas.

Long Island Lighting Company, Docket No. 50–322, Shoreham Nuclear Power Station, Suffolk County, New York

Date of application for amendment: June 26, 1986.

Brief description of amendment: Corrects an error in the Technical Specifications involving a listing of the types of radioactive waste shipping containers and solidification agents and corrects an internal inconsistency in the Technical Specifications regarding the approval process for the Process Control Program.

Date of issuance: November 3, 1986.

Effective date: November 3, 1986.

Amendment No. 3.

Facility Operating License No. NPF–36. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 27, 1986 (51 FR 30573). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 3, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 23212.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: July 29, 1986.

Brief description of amendment: This amendment revised the Technical Specifications to incorporate the specific requirements for iodine spiking into the annual report as recommended in Generic Letter 85–19 (Reporting Requirements on Primary Coolant System Iodine Spikes) and delete the primary coolant iodine activity report from Technical Specification 5.9.1.7, Special Reports, since this aspect of plant operation would be reported on an annual basis pursuant to the proposed Technical Specification 6.9.1.3.

Date of issuance: October 27, 1986.

Effective Date: October 27, 1986.

Amendment No.: 90.

Facility Operating License No. DPR–36: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 27, 1986 (51 FR 30561 at 30577).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 27, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: June 14, 1985.

Brief description of amendment: The amendment would add "fail-to-start" to the automatic diesel generator trips that would not be bypassed upon loss of voltage on the emergency bus and/or safety injection actuation signal.

Date of issuance: October 29, 1986.

Effective date: October 29, 1986.

Amendment No.: 121.

Facilities Operating License No. NPF–1: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 9, 1986 (51 FR 12236). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 29, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Multnomah County Library, 801 SW. 10th Avenue, Portland, Oregon.

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: October 9, 1984.

Brief description of amendment: The amendment revises the Technical Specifications to comply with the guidelines of Generic Letter 84–11 by imposing a more restrictive leakage limit as well as increased surveillance requirements.

Date of issuance: October 31, 1986.

Effective date: October 31, 1986.

Amendment No.: 102.

Facility Operating License No. DPR–59. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 21, 1984 (49 FR 45963). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 31, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: January 25, 1984.

Brief description of amendments: The amendments change the Technical Specifications to delete diesel generator Surveillance Requirement 4.8.1.1.2.d.6.

Date of issuance: October 28, 1986.

Effective date: October 28, 1986.

Amendment Nos.: 49 and 41.

Facility Operating License Nos. DPR–77 and DPR–79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 28, 1984 (49 FR 38410). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 28, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Washington Public Power Supply System, Docket No. 50–397, WNP–2, Richland, Washington

Dates of amendment request: May 30, 1985, and September 30, 1985.

Brief description of amendment: This amendment revises Section 3/4.6.4 (Vacuum Relief) of the WNP–2 Technical Specifications to permit plant operation with two sets of the nine sets of suppression chamber-to-drywell vacuum breakers inoperable.

Date of issuance: October 31, 1986.

Effective date: October 31, 1986.

Amendment No.: 30.

Facility Operating License No. NPF–21: Amendment revises the Technical Specifications.

Date of initial notice in the **Federal Register:** January 15, 1986 (51 FR 1881). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 31, 1986.

No Significant Hazards consideration comments received: No.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Washington Public Power Supply System, Docket No. 50–397, WNP–2, Richland, Washington

Dates of amendment request: October 28, 1985 and February 24, 1986.

Brief description of amendment: This amendment revises Sections 3.6.3 (Primary Containment Isolation Valves) and 3.6.5.2 (Secondary Containment

Automatic Isolation Valves) of the WNP–2 Technical Specifications. The amendment allows reactor mode changes with primary or secondary containment isolation valves inoperable provided they are closed and secured.

Date of issuance: November 6, 1986.

Effective date: November 6, 1986.

Amendment No.: 31.

Facility Operating License No. NPF–21: Amendment revises the Technical Specifications.

Date of initial notice in the **Federal Register:** January 15, 1986 (51 FR 1882). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 6, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Washington Public Power Supply System, Docket No. 50–397, WNP–2, Richland, Washington

Date of amendment request: August 12, 1985.

Brief description of amendment: This amendment revises Section 3/4.3.7.12 (Radioactive Gaseous Effluent Monitoring Instrumentation) and 3/4.11.2.7 (Radioactive Effluents, Main Condenser) of the WNP–2 Technical Specifications to clarify the operating conditions for which radioactive effluent monitoring is required.

Date of issuance: November 6, 1986.

Effective date: November 6, 1986.

Amendment No.: 32.

Facility Operating License No. NPF–21: Amendment revises the Technical Specifications.

Date of initial notice in the **Federal Register:** October 9, 1985 (50 FR 41257). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 6, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Dated at Bethesda, Maryland this 13th day of November 1986.

For the Nuclear Regulatory Commission.

R. Wayne Houston,

Acting Director, Division of BWR Licensing Office of Nuclear Reactor Regulation.

[FR Doc. 86–26016 Filed 11–18–86; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–15409; File No. 812–6509]

Application for Exemption; Banco Central, S.A.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Banco Central, S.A.

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks an order to permit it to issue and sell its equity securities in the United States, either directly or in the form of American depositary shares represented by American depositary receipts. The order requested will supplement a prior order, dated March 26, 1986, which exempted Applicant from all provisions of the 1940 Act in connection with the issuance and sale of its commercial paper notes and other debt securities in the United States (Investment Company Act Release No. 15015).

Filing Date: The application was filed on October 22, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption 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 December 8, 1986. 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, in the case of an attorney-at-law, by certificate. Request notifications of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington DC. 20549. Banco Central, S.A., 49 calle de Alcalo, Madrid, Spain.

FOR FURTHER INFORMATION CONTACT: Thomas C. Mira, Staff Attorney (202) 272–7324 or Brion R. Thompson, Special Counsel (202) 272–3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant was chartered in 1919 to conduct a banking business and since that date has continuously functioned and been subject to extensive regulation as a bank in Spain. Applicant, together with its subsidiaries and associated companies ("Banco Central Group"), provides a comprehensive range of banking and other financial and related services in Spain and in more than 20 other countries. At December 31, 1985, Applicant ranked as the largest bank in Spain in terms of equity (approximately U.S. $910 million), total assets (approximately U.S. $17 billion) and deposits (approximately U.S. $12 billion).

2. The Banco Central Group has a significant presence in the United States. Applicant's United States banking activities are presently conducted through its branch office in New York City, and agency offices in San Francisco and Miami. In addition, Applicant owns a majority interest in Banco Central of New York, a bank chartered by the State of New York and insured and regulated by the Federal Deposit Insurance Corporation. The principal United States branch operations of the Banco Central Group are located in New York.

3. Applicant is registered as a bank holding company under the Bank Holding Company Act of 1956. Applicant is also subject to the provisions of the International Banking Act of 1978 ("IBA") and its activities are supervised and examined pursuant to the laws of the states of New York, California and Florida. Moreover, American Depositary Receipts representing interests in Applicant's common stock are listed on the New York Stock Exchange. As a result, Applicant is subject to periodic filing requirements under the Securities Exchange Act of 1934 ("1934 Act") and the regulation of the New York Stock Exchange.

4. The requested order is necessary and appropriate in the public interest because Applicant would be effectively precluded from publicly offering its equity securities in the United States if required to register as an investment company. Such exemptive order will facilitate an offering of Applicant's equity securities in the United States and, thus, will advance the IBA's policy objective of parity of treatment between domestic and foreign banks in like circumstances. It will also facilitate domestic investment by U.S. investors in

a major foreign issuer, subject to the protections afforded by the Securities Act of 1933 ("1933 Act") and the 1934 Act, and thereby advance the national goals of opening the U.S. capital markets to foreign entities and encouraging the free flow of capital among nations.

5. The requested order is consistent with the protection of investors because (1) the rationale for exempting U.S. banks from the coverage of the 1940 Act applies with equal force to Applicant; (2) all U.S. investors in Applicant's stock will be afforded the protections of the 1933 Act and the 1934 Act; and (3) the corporate democracy provisions contained in the 1940 Act are not necessary for the protection of investors.

6. The requested order is consistent with the purposes fairly intended by the policy and provisions of the 1940 Act because commercial banks such as Applicant were not within the intent of the 1940 Act.

7. Applicant undertakes that it will not make an offering of equity securities in the United States unless (a) the offering of such securities is registered under the 1933 Act or (b) in the opinion of Applicant's U.S. counsel an exemption from 1933 Act registration is available with respect to such offer and sale or (c) the staff of the Commission states that it would not recommend that the Commission take any action under the 1933 Act if such securities are not registered.

8. Applicant undertakes that any offering of its equity securities in the United States will be made on the basis of disclosure documents which are appropriate and customary for such offering, whether made pursuant to a registration statement under the 1933 Act or an exemption therefrom. In connection with any offer and sale by Applicant of its equity securities in the United States, Applicant undertakes that it will appoint an agent to accept service of process in any suit, action or proceeding with respect to such offer and sale instituted in any State or Federal court in New York City by the holder of any such securities, and will expressly submit to the jurisdiction of any such court for the purpose of any such suit, action or proceeding.

9. Applicant has no present intention to curtail its banking operations in the United States so that it would cease to be regulated as a bank in the United States; if, however, such operations are curtailed in the future with the result that it is no longer regulated as a bank in the United States, Applicant undertakes that it will continue to comply with its undertakings regarding its appointment of an agent in New York City and its submission to jurisdiction until such time as there are no holders in the United States of its equity securities issued in reliance upon the requested order. Applicant has no present intention to curtail its banking operations in Spain so that it would cease to be regulated as a bank in Spain and undertakes that no equity securities shall be offered or sold in the United States unless, at the time, Applicant is supervised and examined by governmental authorities in Spain having supervision over banks in that country and by State or Federal authorities in the United States having supervision over U.S. banks.

Applicant's Conditions

Applicant agrees that if the requested order is granted such order will be expressly conditioned on Applicant's compliance with the undertakings set forth above.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

November 13, 1986.

[FR Doc. 86-26106 Filed 11-18-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15408; (File No. 812-6471)]

Bank of Ireland and Bank of Ireland Financial, Inc.; Foreign Bank Application

November 13, 1986.

Notice is hereby given that Bank of Ireland ("BOI") and its wholly-owned United States subsidiary, Bank of Ireland Financial, Inc. ("Financial") (collectively, "Applicants"), c/o H. Rodgin Cohen, Esq., Sullivan & Cromwell, 125 Broad Street, New York, NY 10004, filed an application on September 4, 1986, and an amendment thereto on November 5, 1986, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting BOI and Financial from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the text of the Act for the relevant provisions thereof.

According to Applicants, BOI was founded in 1783, is approximately the 188th largest commercial bank in the world, and its principal business consists of making loans and receiving deposits. On the basis of available statistics of the Central Bank of Ireland, BOI and its subsidiaries accounted for one-third of the total assets of all licensed banks in the Republic of Ireland. At March 31, 1986, its total assets amounted to approximately $9.1 billion.

BOI, directly and through its various subsidiaries and branches, also engages in a wide variety of other banking activities, including trust services, credit cards, foreign exchange, syndicated Eurocredits, investment management, leasing and project finance. BOI is subject to extensive regulation by Irish banking authorities administered by the Central Bank of Ireland which licenses and supervises all banks in Ireland and establishes specific capital adequacy and liquidity requirements, prescribed of primary and secondary liquid assets to total assets, and specific standards for and restrictions on investments.

Applicants state that Financial was organized under the laws of the State of Delaware on July 29, 1986, and has authorized capital stock consisting of 1000 shares of common stock, par value $1.00 per share. No capital stock or other securities of Financial have been issued to date. At the time of any issuance of debt securities of Financial, and so long as any such securities are outstanding, Financial will be a wholly-owned subsidiary of BOI. Financial's sole business will be the issuance of debt obligations guaranteed by BOI and the distribution of the proceeds thereof to BOI or other wholly-owned subsidiaries, direct or indirect, of BOI.

BOI proposes to issue and sell, or to cause Financial to issue and sell, in the United States unsecured prime quality, negotiable commercial paper notes (the "Notes") in bearer form, denominated in United States dollars. Applicants undertake to ensure that the Notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold by a commercial paper dealer to institutional investors and other entities and individuals who normally purchase commercial paper notes.

Applicants represent that the terms of the Notes, including their negotiability, maturity and minimum denomination, the amount outstanding at any given time and the manner of offering them to investors will be such as to qualify them and the guarantees for the exemption from registration under the Securities Act of 1933 (the "1933 Act"), provided by section 3(a)(3) of the 1933 Act. Applicants undertake that neither BOI nor Financial will issue and sell the Notes until they have received an opinion of their United States legal counsel that the Notes and the guarantees would be entitled to such

section 3(a)(3) exemption. Applicants do not request Commission review or approval of United States counsel's opinion letter regarding the availability of an exemption under section 3(a)(3) of the 1933 Act. Applicants represent that neither BOI nor Financial is subject to the reporting requirements of the Securities Exchange Act of 1934, and will not become subject to such requirements in connection with the issuance and sale of the Notes.

Applicants state that the Notes issued by BOI will rank *pari passu* among themselves and the Notes issued by Financial will rank *pari passu* among themselves, in each case prior to equity securities of Financial or BOI, as the case may be, and equally with all other unsecured indebtedness (including liabilities to depositors) of Financial and BOI, as the case may be. BOI's guarantees of the Notes (as described below) will rank *pari passu* among themselves, prior to equity securities of BOI and equally with all other unsecured indebtedness including liabilities to depositors of BOI.

Applicants may, from time to time, offer other debt securities, but not shares of their capital stock, for sale in the United States. Any such future offerings will be made with due regard to the provisions of Regulation D and the doctrine of "integration" referred to in Securities Act Releases Nos. 4434, 4552, 4708 and 6389 and various "no action" letters made public by the Commission. Applicants undertake that, for any future offering of their debt securities made pursuant to a registration statement under the 1933 Act, they will furnish a disclosure document to such persons and in such manner as may be required by the 1933 Act and the rules and regulations thereunder.

Applicants state that payment of the principal, interest and premium, if any, on existing and future Notes issued and sold by Financial will be unconditionally guaranteed by BOI. The proceeds of the sale of such Notes of Financial (to the extent not applied to the repayment of maturing Notes or to the payment of minimal current expenses) will be placed on short-term deposit with, or loaned to, BOI and other wholly-owned subsidiaries, direct or indirect, of BOI, and substantially all of Financial's assets will consist of amounts receivable from BOI or its wholly-owned subsidiaries. Such deposits or loans would be repaid to Financial on terms that are substantially similar to those of Financial's Notes to allow Financial to make timely payments on the Notes.

Applicants undertake to ensure that the dealer will provide each offeree of the Notes, as well as any future issues of debt securities in the United States (together hereinafter referred to as "Securities"), prior to purchase with a memorandum which briefly describes the business of BOI, including its most recent publicly available fiscal year-end balance sheet and profit and loss statement which shall have been audited in such manner as is customarily done for BOI by its statutory auditors for financial statements. Such memorandum will describe differences which are material to investors, if any, between the accounting principles applied in the preparation of such financial statements and "generally accepted accounting principles" as employed by banks in the United States. Applicants undertake that such memorandum and financial statements will be at least as comprehensive as those customarily used by United States bank holding companies in offering commercial paper in the United States and will be updated promptly to reflect material changes in the financial condition of BOI.

Applicants represent that their Securities shall have received prior to issuance one of the three highest investment grades from at least one nationally recognized statistical rating organization and that their United States counsel shall have certified that such rating has been received *provided, however,* that no such rating need be obtained with respect to any such issue if, in the opinion of United States counsel, such counsel having taken into account for the purpose thereof the doctrine of "integration" referred to in Rule 502 under the 1933 Act and various releases and relevant no-action letters made public by the Commission, an exemption from registration is available under section 4(2) of the 1933 Act.

Applicants may appoint a financial institution in the United States as its authorized agent to issue its Securities from time to time. BOI undertakes to appoint either such financial institution, Financial or some other United States person which normally acts in such capacity to accept any process which may be served in any action based on the Securities and instituted by the holder of such Securities in any State or Federal court. Applicants undertake that they will expressly accept the jurisdiction of any State or Federal court in the City and State of New York in respect of any such action. Such appointment of an authorized agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Securities have been paid. Applicants also will be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the Securities or otherwise in connection with the Securities. The authorized agent will not be a trustee for the holders of the Securities and will not have any responsibilities or duties to act for such holders as would a trustee.

Applicants consent to any order granting this application being expressly conditioned on their compliance with the undertakings set forth above. Applicants assert, for the reasons set forth in their application, that granting an exemptive order pursuant to section 6(c) of the Act is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 8, 1986 at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reason for such request, and the specific issues, if any, of fact or law that are disputed to the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. A copy of such request should be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-26107 Filed 11-18-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23792; File No. SR-NSCC-86-15]

Self-Regulatory Organizations; Proposed Rule Change By Relating to an Amendment to National Securities Clearing Corp.'s ("NSCC") Rules and Procedures

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given

that on October 30, 1986, NSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. 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

Modify National Securities Clearing Corporation's ("NSCC") SCC Division Rule 39 as follows:

Special Representative

Rule 39

* * * * *

A Special Representative, who operates an automated execution system where the Special Representative is always the contra side to each transaction, (hereinafter referred to throughout the Rules as a "Qualified Special Representative"), or such other Special Representatives as the Corporation may permit in its discretion, may elect to submit in automated form trade data from such automated execution systems as a locked-in trade which would appear on T-Contracts.

Modify NSCC's SCC Division Procedures II. B. 1., as follows:

II. Trade Comparison Service

* * * * *

B. NYSE/AMEX Equity Securities

* * * * *

1. Trade Input and Comparison

* * * * *

Trade data as submitted by Members is converted, if necessary, validated and matched by the Corporation to insure that the details of each trade are in agreement between the purchaser and seller. Results of this process are reported by the Corporation to Members on T+1 Contract lists. With regard to trade data reported by Self-Regulatory Organizations or other service bureaus or *Qualified Special Representatives,* which the Corporation may accept on behalf of a Member, the Corporation may report back such data to Members on T-Contract lists. T+1 Contract lists are available to Members on the morning of T+2. T-Contract lists are available to Members on the morning of T+1. Separate T+1 and T Contract lists are issued for transactions executed on the NYSE and AMEX.

* * * * *

Modify NSCC's Fee Structure, as follows:

V. Pass-Through and Other Fees

A. Participant Fees

Represents the monthly fee for each number assigned to a Member, Municipal Comparison Only Member or Fund/Serv Member for participation by each Member, Municipal Comparison Only Member or Fund/Serv Member under such number in one or more of the specified services provided by NSCC. The [six] *seven* services and their related base fees are:

* * * * *

7. Qualified Special Representatives—$500.00 per month

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC 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

Pursuant to NSCC Rule 39, Members are able to submit trade data on behalf of others through the special representative mechanism. To become a special representative, both sides must enter into a representative agreement and authorization agreement.

Several NSCC Members who are OTC market makers operate automated execution systems where they are always the contra party to the transaction. Pursuant to agreements which these market makers have with subscribers to their service, the subscribers must accept the terms of the trade. Currently, subscribers can appoint the market maker as a special representative and have him input this trade data to NSCC on T+1 or he can input the data himself.

Since the subscriber is required to accept the terms of the trade, these market makers have requested that they be able to input that data as a locked-in trade on trade date and have the trade appear on T-Contracts. By having the trades appear as a compared trade sooner, it would relieve one of their operational burdens. Further, since the proposed rule change will promote the prompt and accurate comparison of securities transactions eminating from OTC market makers' automated execution systems, the proposed rule change is consistent with the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder.

The proposed rule change will limit this service though, to those market makers who are always the contra side to each transaction, and they would still be required to enter into special representative agreements in order to input this data.

Additionally, in order to recover costs of initial changes to accept automated input and to update such periodically, each Member inputting the locked-in trade would be charged a monthly participant fee of $500.00 in addition to the transaction recording fee.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not perceive that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No comments on the proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the 1934 Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the 1934 Acts.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–NSCC–86–15 and should be submitted by December 10, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 12, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–26101 Filed 11–18–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23791; File No. SR–OCC–86–19]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Options Clearing Corp.

The Options Clearing Corporation ("OCC"), on September 8, 1986, filed a proposed rule change with the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"). The Commission is publishing this notice to solicit comment on the rule change.

The proposal amends OCC By-Laws Article VII, section 1, Interpretation and Policy .02 ("Interpretation"). The proposal broadens the authority of OCC Clearing Members to submit to OCC on expiration date (after the return of the Preliminary Exercise Report but before the return of the Final Exercise Report under OCC Rule 805) adjustments to correct *bona fide* errors or omissions on their exchange transactions in an expiring options series. Previously, the Interpretation limited such adjustments to expiring options having exercise prices within ⅝ point ($0.625) of the closing price of the underlying security. The proposal rescinds that limitation. OCC proposed the limitation in 1983 to minimize the volume of adjustments and related paperwork.[1] Since that time, however, OCC has implemented an on-line communications system (Clearing Member Accounting and Control System, *i.e.*, "C/MACS"). Because C/MACS has reduced significantly the volume of paperwork requiring OCC processing, OCC now believes that its system easily can handle greater adjustment processing. The adjustments will be conducted as an on-line C/MACS procedure. Moreover, OCC will continue to monitor the adjustments and foresees no particular monitoring problems due to elimination of the ⅝ point restriction.[2]

OCC states that the proposal is consistent with the purposes and requirements of section 17A of the Act in that it would promote the prompt and accurate clearance of securities transactions and protect investors by permitting inadvertent errors to be corrected.

The rule change has become effectively pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

You may submit written comment within 21 days after notice is published in the **Federal Register.** Please file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, with accompanying exhibits and all written comments, except for material that may be withheld from the public under 5 U.S.C. 552, are available at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–86–19 and should be submitted by December 10, 1986.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: November 12, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–26102 Filed 11–18–86; 8:45 am]

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[1] *See* File No. SR–OCC–83–11, which was approved by the Commission in Securities Exchange Act Release No. 19803 (May 23, 1983), 48 FR 24505 (June 1, 1983).

[2] OCC monitors the adjustments primarily through daily or weekly surveillance reports. The volume of adjustments and the types of adjustments are reviewed by OCC as key measures of whether the adjustment procedure is being abused.

[Release No. 34–23793; File Nos. SR–PCC–86–03 and SR–PSDTC–86–05]

Self-Regulatory Organizations; Pacific Clearing Corp. and Pacific Securities Depository Trust Co., Order Approving Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), the Pacific Clearing Corporation ("PCC") and the Pacific Securities Depository Trust Company ("PSDTC") (collectively, "PCC/PSDTC") filed with the Securities and Exchange Commission proposed rule changes that would establish an automated, on-line communications link between PCC/PSDTC and its Participants.[1] Participants would access PCC/PSDTC's existing automated securities processing system in several ways: (1) Through the Pacific Participant Terminal System ("PPTS"); and (2) via computer-to-computer transmission or magnetic tape through the Pacific Automated Services ("PASS"). Notice of the proposals was published in Securities Exchange Act Release Nos. 23457 (July 22, 1986), 51 FR 27105 (July 29, 1986), and 23456 (July 22, 1986), 51 FR 27106 (July 29, 1986). No comment letters were received. This Order approves the proposals.

I. Description of the Proposals

The proposed Pacific Participant Terminal System ("PPTS") would enable a PCC/PSDTC Participant to communicate electronically with PCC/PSDTC via a terminal located at the Participant's place of business. Each Participant would need to purchase or lease terminal equipment, *i.e.*, a screen-type terminal and a printer. A compatible personal computer ("PC"), which many businesses have on hand for other business purposes, also could be used to accomplish the link.

Through the terminal system, Participants could perform several functions that previously could be effected only through paper submissions. Each Participant could: (1) Affirm, cancel and print confirmations of trades submitted to the National Institutional Delivery System ("NIDS") and inquire on the status of NIDS trades throughout the NIDS processing cycle; and (2) effect free or valued depository movements of securities between its account and the account of another Participant, initiated cash only movements, and inquire on the status of these depository movements.

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[1] The two clearing agencies jointly operate one electronic communications system.

The system would contain multiple security features to reduce to the greatest extent possible the risk of unauthorized system access. Participants would access the system either through dedicated leased telephone lines[2] or by dial-up over commercial lines with a "call-back" verfication by the PCC/PSDTC system.[3] All participant terminal locations also would be identified by a terminal ID number, invisible to the user, which would be cross-referenced to the Participant's user passwords. This feature should ensure that the Participant will be able to access its own account(s) only. Moreover, each Participant would be assigned on Participant request unique multilevel user passwords, that could be used to restrict access by function.

The Pacific Automated Services System ("PASS") would be an integrated system that provides another alternative for the exchange of information between PCC/PSDTC and its Participants. PASS would permit PCC/PSDTC Participants to link their mainframe or microcomputer to PCC/PSDTC. Participants without an in-house data processing capability could use PCC/PSDTC's system, through PASS, to link directly to their data processing service bureaus. PCC/PSDTC Participants also could receive and send information through the physical exchange of magnetic tapes.

II. Rationale for the Proposal

PCC/PSDTC believe that the proposed rule changes are consistent with section 17A of the Act. PCC/PSDTC state that PPTS and PASS facilitate rapid and efficient communication between PCC/PSDTC and its Participants. This promotes the prompt and accurate clearance and settlement of securities transactions by eliminating the labor intensive processing of paper input. Additionally, PCC/PSDTC believe that the direct communicatons link between PCC/PSDTC and its Participants should encourage the use of National Clearance and Settlement System facilities. This increased use should result in further immobilization of securities certificates in the depository environment and should reduce the number of physical securities deliveries, consistent with the goals of section 17A.

III. Discussion

For reasons discussed below, the Commission agrees with PCC/PSDTC that the proposed rule changes are consistent with the Act and, therefore, is approving the proposals. The Commission believes that the proposal should facilitate the prompt and accurate clearance and settlement of securities transactions. The Commission also believes that the proposal contains sufficient safeguards to assure the safety of securities and funds in the custody or control of PCC/PSDTC.

The Commission agrees with PCC/PSDTC that the proposal should enhance PCC/PSDTC's ability to process securities transactions and should increase the operational efficiency of the clearing agencies. This will benefit Participants in several ways. First, the automated communications link should significantly speed up securities processing. Participants for the first time will have almost instantaneous access to a complete, current data base of their transactions and will be able to determine at any time the status of their transactions in the system. Second, the proposed system wll reduce paper processing. No longer will Partcipants need to use the mail or messengers to deliver paper delivery instructions, reports and other documents. The system should substantially reduce costs related to preparing and delivering such documents as well.[4] Moreover, the proposed system should eliminate the high incidence of clerical errors typically associated with manual processing.

The Commission also believes that the proposed link should promote more widespread use of PCC/PSDTC's automated securities processing system. The dial-up access alternative is considerably more economical than dedicated line access and, therefore, affordable to more Participants. Indeed, for many Particpants, initial start-up costs should be minimal because existing hardware, e.g., an IBM PC, modem and printer, simply would be used for an additional application.

Moreover, because the automated communication system should facilitate book-entry securities deliveries among Participants, fewer physical securities deliveries will occur. Thus, the system will reduce the related risk of loss of securities and funds.

Finally, the Commission believes that the security features built into the proposed system are adequate to assure the safeguarding of securities and funds in PCC/PSDTC's custody or control. While the Commission recognizes that no safeguarding system can completely guarantee the safety of securities and funds within the clearing agency's automated system from the risk of unauthorized system access, the Commission believes that clearing agencies' automated processing systems, and, in particular, systems that provide dial-up access, should contain safeguarding mechanisms adequately designed to reduce to the greatest extent possible the risk of unauthorized system access.[5] The Commission is satisfied that PCC/PSDTC's system safeguards, *e.g.*, use of dedicated lines or dial-up access controlled by terminal identification, multiple passwords, access restrictions by function and the call-back feature, are well-designed and should help ensure system integrity by maintaining a sufficient level of protection against the risk of unauthorized system access.

IV. Conclusion

Based on the foregoing, the Commission finds that the proposals (File Nos. SR–PCC–86–03 and SR–PSDTC–86–05) are consistent with the Act, and, in particular, with section 17A.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and hereby are, approved.[6]

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: November 12, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–26103 Filed 11–18–86; 8:45 am]

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[2] Leased line configurations are direct from PCC/PSDTC to the Participant's location and would be the Participant's sole means of system access.

[3] The calling Participant is first prompted by the PCC/PSDTC system for the Participant's unique ID number. If the system confirms the ID number, the call is terminated. The system then immediately re-dials the terminal at the pre-determined, system-stored valid location tied to the ID number. If the ID number that the user provides is not recognized by the system on any attempt, a security message will be printed. After three failed attempts to enter the system, the system automatically shuts off and a data processing supervisor is alerted.

[4] Firms may realize even more cost savings because fewer resources will be needed to effect back-office operations.

[5] The Commission previously has addressed and approved dial-up access procedures and safeguards. *See* Securities Exchange Act Release Nos. 20519 (December 30, 1983), 49 FR 966 (January 6, 1984), approving File Nos. SR–DTC–76–8, SR–MSTC–77–9, SR–MCC–77–4 and SR–Philadep–83–3; 21227 (August 9, 1984), 49 FR 32898 (August 15, 1984), approving File No. SR–MSTC–84–05; and 22939 (February 24, 1986), 51 FR 7172 (February 28, 1986), approving File No. SR–OCC–85–20.

[6] The Commission directs PCC/PSDTC to monitor the adequacy of its safeguarding scheme with respect to dial-up access and to file necessary system changes with the Commission expeditiously under section 19(b) of the Act.

[Release No. 34-23795; File Nos. SR-PSE-85-30, PSE-86-20]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc., Order Approving Proposed Rule Change and Notice and Order Granting Accelerated Approval

I. Introduction

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder, [2] the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Commission on October 7, 1985, and September 26, 1986, respectively, proposed rule changes to list and trade a broadbased market index option contract on the Financial News Composite Index ("FNCI" or "Index") and to alter its trading hours for index options. Notice of File No. SR-PSE-85-30 was given by the issuance of Securities Exchange Act Release No. 22536 (October 17, 1985), 50 FR 43050. No comments were received on the proposal. File No. SR-PSE-86-20, has not been noticed previously. The Commission has determined to approve the proposed rule changes.

II. Description of Proposals

The Financial News Network ("FNN") is a cable television network which provides live financial news programming to subscribers. FNN reaches approximately 22 million homes nationwide. On April 1, 1985, FNN began to disseminate the FNCI. The FNCI is a price weighted index [3] comprised of thirty domestic common stocks designed to track the overall stock market. Individual issues are selected from the more highly capitalized, publicly traded issues on the New York Stock Exchange ("NYSE"). In its filing, the PSE states that each of the underlying securities must meet the following criteria:

(1) The issue must have had an average daily trading volume of 100,000 shares for the 120 days prior to the day the issue is included in the Index; and

(2) The issue must have a minimum capitalization of one billion dollars. The stocks comprising the Index represent approximately 27 industry groups.[4] As of October 1, 1986, the aggregate capitalization of all 30 stocks in the FNCI was over $430 billion. During the last four month period, each of the stocks has had an average trading volume of at least 100,000 shares.

The price-weighted FNCI is calculated by adding the sum of one share of each of the 30 component stocks in the Index and dividing the sum by a constant divisor.[5] Accordingly, stocks with higher prices will influence the Index value more than the lower-priced stocks. As of October 10, 1986, the highest priced stock in the Index, IBM, represented 7.7% of the Index value. The three highest priced stocks have an aggregate weight of 20.39% of the Index value; the top six highest-priced stocks represent 35.38% of the Index value. The FNCI value will be calculated and disseminated at least once each minute during market hours.

A component of the FNCI will be replaced if any of the following events occurs: (1) A stock's capitalization falls below one billion dollars; (2) a corporation enters bankruptcy; (3) a substantial change in a corporation's business focus takes place; or (4) a corporation is merged out of existence. Whenever a stock is deleted, it will be replaced with a stock with a capitalization of at least one billion dollars and a minimum average liquidity of at least 100,000 shares per day.

The PSE proposes to apply its existing broad-based index options rules to trading options on the FNCI. In addition, quotes will be in fractions, and the Index multiplier will be the same as that provided for in Exchange Rule XXI, section 2. The PSE anticipates having ten point strike price intervals on the FNCI. The Exchange proposes to trade the FNCI option contract on the March cycle[6] with two near-term months and two far-term months. The FNCI contract will be a European-style[7] option. As such no exercise of the contract may be effected prior to the day proceeding expiration.[8]

The PSE also proposes to amend its Exchange Rules to alter its existing trading hours for index options from 6:30 a.m. to 1:10 p.m. Pacific time to 6:30 a.m. to 1:15 Pacific time in order to permit simultaneous trading of futures and options on the same indexes during the same time. Currently, the PSE has listed and permits trading of options on the PSE Technology Index, a price-weighted, broad-based index. The PSE indicates that trading hours for the PSE Technology Index futures contract on the Pacific Futures Exchange will be 6:30 a.m. until 1:15 p.m. Pacific Time. In addition, the PSE states that it has been informed by the International Futures Exchange, Ltd. ("Intex") that it will trade futures against the FNCI from 6:30 a.m. Pacific Time until 1:15 p.m. Pacific Time.[9]

III. Discussion

The PSE proposal to trade options on the FNCI does not, for the most part, raise novel questions. The Commission previously has approved the PSE broad-based index options rules that will be applied to the FNCI.[10] The Commission finds that the PSE proposed designation of the Index as broad-based is appropriate. As noted above, the FNCI contains stocks representing a diversity of business sectors. In addition, because the Index contains 30 stocks and is price-weighted, the PSE has ensured that no single stock or group of stocks should comprise a significant percentage of the Index.[11] The Commission notes

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[1] 15 U.S.C. 78s(b) (1982).

[2] 17 CFR 240. 19b-4 (1986).

[3] A price weighted index is calculated by adding the prices of one share of each of the companies in the index and dividing that sum by a pre-established divisor.

[4] These industry groups include manufacturing, computers, food services, pharmaceuticals, leisure, financial services, and communications.

[5] In keeping with Exchange Rule XXI, Section 5, the divisor will be adjusted only when necessary to maintain continuity of Index values. The PSE anticipates that the divisor will be modified only if an underlying security is subject to a stock split or stock dividend amounting to 10% or more of the current outstanding shares. The current divisor is 1.06502.

[6] The Index will trade on a January-March-June-September-December exercise cycle.

[7] A European-style option may be exercised only during a specified period (which may be as short as a single day) just before the option expires. This is in contrast to an American-styled option which may be exercised by the holder at any time after it is purchased until it expires. The writer of a European-style option is subject to the assignment of an exercise only during the exercise period.

[8] The PSE proposes to amend Exchange Rule XXI, Section 15, to permit the Exchange to list options on stock indexes on both American and European-style options.

[9] Intex is a fully automated futures exchange subject to oversight by the Government of Bermuda, which has the authority to investigate and impose sanctions, including suspending trading on the exchange, if Intex fails to carry out its obligations under Intex's enabling statute. The International Commodities Clearinghouse, Ltd. in London is Intex's clearinghouse.

[10] PSE Rule XXI.

[11] As a separate matter, the Commission notes the federal securities laws, unlike the regulations under the Commodity Exchange Act, do not contain an explicit "economic purpose" test for new options products. Nevertheless, to approve a new options proposal the Commission must be satisfied that its introduction is in the public interest [*see* section 6(b)(5) of the Act, 15 U.S.C. 78(f)(b)(5) (1984)]. Such a finding would be difficult with respect to an options product that served no hedging or other economic function because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the Commission accepts the PSE's representation that

Continued

that the dollar value of the 15,000 contract position limit[12] is unlikely to cause disruptions either by congestion or manipulation in the options or related markets.[13]

Furthermore, the Commission previously has approved options trading on European-style contracts, among them the Chicago Board Options Exchange's ("CBOE") Standard & Poor's 500 Index ("SPX"), which, like the FNCI, is a broad-based index option.[14] In approving the CBOE proposal, the Commission recognized that there are advantages to both American and European-style options, with purchasers generally benefiting from American-style options and sellers from European-style. With the latter type of option, the purchaser is disadvantaged to some extent because he must rely on the continued existence of a liquid secondary market in the options in order to close out an option position before expiration. In contrast, the writer of the contract benefits from the contract's European-style exercise feature, because the writer cannot be exercised against until expiration, and accordingly can engage in long-range planning and strategies. While the Commission recognizes that the European-style of the FNCI may limit the flexibility of options purchasers, we also believe that the exercise feature of the contract may facilitate certain trading strategies and prove useful to investors. These potential risks are fully described in the Options Disclosure Document issued pursuant to Rule 9b–1 under the Act. In light of this disclosure, the Commission is not inclined to substitute its judgment for the business judgment of a self-regulatory organization in matters of contract design, absent regulatory concern.

Similarly, the Commission believes that the use of price-weighting instead of market weighting does not raise problems under the Act.[15] The Commission previously has approved price-weighted indexes,[16] and does not believe that price-weighting poses insurmountable surveillance concerns. Price-weighting can ensure that no single stock or group of stocks comprise a significant percentage of the index (as compared with market value-weighted indices where one stock may compose 50% or more of the weight of the index). In the case of the FNCI, one stock—IBM—represents 7.7% of the Index value. No other stock represents more than 6% of the Index, and 27 of the 30 stocks in the Index individually account for no more than 5.3% of the Index value. If the index were calculated by weighing relevant capitalizations, IBM would, of course, compose an even larger percentage of the Index.[17] In addition, a price movement in a substantial number of stocks in the Index, or substantial price movements in a smaller number of stocks, should be detectable under the surveillance plan being proposed by the PSE.[18] We also note that the minimum capitalization and average daily volume requirements help to ensure that smaller, less liquid stocks are not included in the Index.

Finally, the Commission notes that the PSE Plans to jointly market its option on the FNCI Index with Intex's marketing of futures on the FNCI. Indeed, Intex, a computer-based futures market, plans to make its trading terminals available to PSE members. Accordingly, the PSE and Intex entered into a joint surveillance sharing agreement. Moreover, the Bermuda Minister of Finance has indicated that it does not believe that the Bermuda Protection of Trading Interests Act of 1981[19] would frustrate such surveillance sharing efforts.[20] In view of these arrangements, the Commission believes that PSE has established an adequate regulatory framework for the intermarket surveillance of options trading on FNCI.[21]

IV. Conclusion

Under section 19(b)(2) of the Act, the Commission must approve a proposed rule change if it determines that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. The Commission believes that the Index should provide useful hedging and trading opportunities to investors, institutions, and traders. The Commission has reviewed carefully the rules proposed by the PSE to accommodate the listing and trading of FNCI options, and has concluded that the rules provide for adequate and proper regulation of the proposed market. Accordingly, the Commission finds that SR–PSE–85–30 is consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, the requirements of section 6.

The PSE also requests that its proposal to alter its trading hours for index options, SR–PSE–86–20, be given accelerated effectiveness pursuant to section 19(b) of the Act because the Exchange wishes to implement the change at the same time that the Intex begins trading futures on the FNCI, and the new trading hours will be consistent with those of the other options exchanges.

The Commission finds that SR–PSE–86–20 is consistent with the requirements of the Act and the rules and requirements thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving SR–PSE–86–20 prior to the thirtieth day after the date of publication of notice of filing thereof

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the FNCI will serve an economic function in that availability of this Index will provide investors with added trading and hedging opportunities.

[12] At the current FNCI Index value of 161 on October 10, 1986, the dollar value of a 15,000 contract position would be $241.5 million.

[13] The Commission notes, in this regard, that while it continues to be concerned about the volatility which has been associated with certain so-called Expiration Fridays, it does not believe that the introduction of the FNCI will materially affect those developments. In any event, the Commission will continue its efforts to evaluate alternative methods of addressing Expiration Friday concerns.

[14] At the present time, four European-style option contracts are approved for trading in the United States. *See* Securities Exchange Act Release Nos. 22471 (September 26, 1985), 50 FR 40636, approving a CBOE proposal to trade European-style foreign currency options; 22309 (August 9, 1985), 50 FR 32934, approving a CBOE proposal to convert the SPX from an American to a European-style option; 22999 (March 12, 1986), 51 FR 9733, approving an American Stock Exchange, Inc. ("Amex") proposal to trade European-style 13-week Treasury bill options; and 2311 (June 16, 1986), 51 FR 21815, approving an Amex proposal to trade European-style options on the Institutional Index ("XII").

[15] It should be noted, however, that these practices may have implications with respect to matters in which the Commission does have a regulatory interst, *e.g.*, the use of price-weighting may influence the surveillance procedures PSE must put in place. *See* discussion, *infra*.

[16] *See e.g.*, Amex's Major Market Index, PSE's High Technology Index, and the New York Stock Exchange's ("NYSE") Beta Index.

[17] On October 10, 1986, IBM was trading at about $124.00 per share.

[18] The PSE has submitted a copy of its surveillance sharing agreement with Index for the Division's review. The PSE has also submitted a copy of a letter from the Bermuda Ministry of Finance to the PSE dated October 20, 1986. This letter reflects the stated policy of the Minister of Finance in favor of the agreement between the PSE and the Index for regulatory surveillance and evidences the Minister's assurance that he foresees no circumstances which would warrant invocation of the Protection of Trading Interests Act of 1981 to frustrate the surveillance sharing arrangement between the PSE and the Index.

[19] Bermuda 1981; No. 72 [December 29, 1981].

[20] Letter from Mansfield H. Brock, Jr., Financial Secretary for Ministry of Finance, Bermuda, to PSE, dated October 20, 1986.

[21] The NYSE originally had submitted a letter which raised concerns regarding PSE's surveillance sharing arrangements with Intex. *See* letter from Donald Solodar, Senior Vice President, Market Surveillance Services, NYSE, to Brandon Becker, Assistant Director, Division of Market Regulation, dated October 31, 1985. The Commission understands, however, that in view of subsequent developments regarding the Intex/PSE surveillance sharing agreement, the NYSE is no longer concerned about the adequacy of the agreement.

because the rule change is substantively identical to rule changes previously filed by three other self-regulatory organizations that were approved by the Commission.[22] Those rule changes and the PSE's proposed rule change are intended to coordinate the close of trading in broad-based stock index futures contracts traded elsewhere, thus enhancing the ability to use these instruments for hedging purposes.

V. Solicitation of Comments

Interested persons are invited to submit written data views, and arguments concerning SR–PSE–86–20. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC Copies of such filings also will be available for inspection and copying at the principal office of the PSE. All submissions should refer to the file No. PSE–86–20 and should be submitted by December 10, 1986.

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes be and hereby are, approved.

By the Commission.

Dated: November 12, 1986.

Johathan G. Katz,

Secretary.

[FR Doc. 86–26104 Filed 11–18–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23775; File No. SR–PSE–86–16]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

The Pacific Stock Exchange, Inc. ("PSE") submitted a proposed rule change on July 22, 1986 pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] to amend PSE Rule VI, sections 48 and 79 (Commentary .06), and to institute a new Options Floor Procedure Advice ("OFPA"). The amended rules are designed to ensure that for certain series of options, non-broker dealer customer orders will be filled to a minimum depth of ten contracts by the market makers in the trading crowd. The Commission solicited comment on the proposal, but received none.[3]

Specifically, the proposed rule change would apply to near-term equity options which are at-the-money, just in or just out-of-the-money at the time the request for a bid or offer is made. The rule change would require that Order Book Officials ensure that when market makers are responsible for the best bid and/or best offer in a particular series, orders will be filled to a depth of at least ten contracts by the trading crowd market makers. Under the proposed rule change, if there is insufficient response to provide a depth of ten contracts, the Order Book Official will allocate contracts among the market makers in the trading crowd to satisfy the ten contract requirement. The proposed rule would apply only when the bid or offer is solicited by a floor broker representing a non-broker dealer customer order.

In its filing, PSE stated that the purpose of its proposed rule change is to benefit the public by increasing liquidity in the more popular option series. Guaranteed ten contract liquidity will, according to PSE, eliminate partially-filled retail orders. This will reduce commission costs for retail customers by ensuring that public orders can be filled in one transaction, rather than in several transactions. It will also be consistent with section 6 of the Act because it will facilitate transactions in securities and protect investors and the public interest. Accordingly, the Commission finds that the PSE proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposal is consistent with sections 6 and 11A of the Act.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 4, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–26105 Filed 11–18–86; 8:45 am]

BILLING CODE 8010–01–M

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[22] Similar rule changes were filed by the CBOE, the Amex, and the NYSE. *See* Securities Exchange Act Release No. 22957 (February 27, 1986).

[1] 15 U.S.C. 78s(b)(1984).

[2] 17 CFR 240.19b–4 (1986).

[3] The proposed rule change was noticed in Securities Exchange act Release No. 23512 (August 6, 1986), 51 FR 29039 (August 13, 1986).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2261; Amdt. 1]

Alaska; Declaration of Disaster Area

The above-numbered Declaration (51 FR 40099), is hereby further amended to change the interest rate for non-profit, eleemosynary and similar organizations from 10.5 percent to 9.5 percent. Any loans approved to an organization in this group between October 1, 1986, and this date, will be automatically adjusted to reflect the new rate. All other information remains the same.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: November 13, 1986.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86–26125 Filed 11–18–86; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2254; Amdt. 2]

Illinois; Declaration of Disaster Area

The above-numbered Declaration (51 FR 36891), as amended (51 FR 37998), is hereby further amended to change the interest rate for non-profit, eleemosynnary and similar organizations from 10.5 percent to 9.5 percent. Any loans approved to an organization in this group between October 1, 1986, and this date, will be automatically adjusted to reflect the new rate. All other information remains the same.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: November 13, 1986.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86–26126 Filed 11–18–86; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 2260; Amdt. 1]

Kansas; Declaration of Disaster Area

The above-numbered Declaration (51 FR 39731), is hereby further amended to change the interest rate for non-profit, eleemosynary and similar organizations

from 10.5 percent to 9.5 percent. Any loans approved to an organization in this group between October 1, 1986, and this date, will be automatically adjusted to reflect the new rate. All other information remains the same.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: November 13, 1986.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86-26127 Filed 11-18-86; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2258; Amdt. 2]

Missouri; Declaration of Disaster Area

The above-numbered Declaration (51 FR 37532), as amended (51 FR 40099), is hereby further amended to change the interest rate for non-profit, eleemosynary and similar organizations from 10.5 percent to 9.5 percent. Any loans approved to an organization in this group between October 1, 1986, and this date, will be automatically adjusted to reflect the new rate. All other information remains the same.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: November 13, 1986.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86-26128 Filed 11-18-86; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2257; Amdt. 2]

Montana; Declaration of Disaster Area

The above-numbered Declaration (51 FR 37533), as amended (51 FR 40099), is hereby further amended to change the interest rate for non-profit, eleemosynary and similar organizations from 10.5 percent to 9.5 percent. Any loans approved to an organization in this group between October 1, 1986, and this date, will be automatically adjusted to reflect the new rate. All other information remains the same.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: November 13, 1986.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86-26129 Filed 11-18-86; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2259; Amdt. 2]

Oklahoma; Declaration of Disaster Area

The above-numbered Declaration (51 FR 37533), as amended (51 FR 40099), is hereby further amended to change the interest rate for non-profit, eleemosynary and similar organizations from 10.5 percent to 9.5 percent. Any loans approved to an organization in this group between October 1, 1986, and this date, will be automatically adjusted to reflect the new rate. All other information remains the same.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: November 13, 1986.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86-26130 Filed 11-18-86; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2253; Amdt. 2]

Wisconsin; Declaration of Disaster Area

The above-numbered Declaration (51 FR 36892), as amended (51 FR 39449), is hereby further amended to change the interest rate for non-profit, eleemosynary and similar organizations from 10.5 percent to 9.5 percent. Any loans approved to an organization in this group between October 1, 1986, and this date, will be automatically adjusted to reflect the new rate. All other information remains the same.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: November 13, 1986.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86-26131 Filed 11-18-86; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit the maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "Debenture Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged on ten-year debentures sold by Licensees to the public. Notice of this rate will be published upon change in the Debenture Rate.

Accordingly, Licensees are hereby notified that effective November 4, 1986, and until further notice, the Debenture Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is 8.750% per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to section 308(i) of the Small Business Investment Act, as amended by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Dated: November 7, 1986.

John L. Werner,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 86-26132 Filed 11-18-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 984]

Agency Forms Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted a proposed collection of information to the Office of Management and Budget for review.

SUMMARY: The following summaries the information collection proposal submitted to OMB.

1. Title of information collection—Application for Confidential Verification of Birth.

Form number—DSP-16.

Originating office—Bureau of Consular Affairs.

Type of request—Reinstatement.

Frequency—On occasion.

Respondents—State vital statistics offices.

Estimated number of responses—3,000.

Estimated number of hours needed to respond—250.

Section 3504(h) of P.L. 96-511 does not apply.

Additional information or comments: Copies of the proposed form and supporting documents may be obtained from Gail J. Cook (202) 647-4086. Comments and questions should be

directed to (OMB) Francine Picoult (202) 395–7231.

Dated: November 10, 1986.

Donald J. Bouchard,

Assistant Secretary for Administration.

[FR Doc. 86–26033 Filed 11–18–86; 8:45 am]

BILLING CODE 4710–24–M

[CM–8/1021]

Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on Tuesday, December 9, 1986, at 9:30 a.m. in Room 1406 of the Department of State, 2201 C Street, NW., Washington, DC.

The purpose of the meeting is to discuss matters relating to a possible accelerated procedure covering a CCITT Recommendation addressing digitally encoded algorithm (1.5 Mbs video telephony codec standard).

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Henry Marchese, AT&T (201) 234–3790.

Dated: November 12, 1986.

Earl S. Barbely,

Director, Office of Technical Standards and Development.

[FR Doc. 86–26084 Filed 11–18–86; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket 79–17; Notice 32]

Optional New Car Assessment Program Testing by Manufacturers

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

ACTION: Request for Comments on Optional New Car Assessment Program (NCAP) Testing by Manufacturers.

SUMMARY: This notice requests comments on an optional NCAP crash test program for motor vehicle manufacturers being proposed by NHTSA. The program would provide manufacturers with an opportunity to retest any of their vehicles which have been tested in NCAP and later modified with production changes to improve occupant protection. This optional test program would be conducted at the manufacturer's expense but under criteria established by the agency. The results would be identified as optional test program data and would be published by the agency in the NCAP press releases.

DATE: Written comments on this notice must be submitted no later than January 5, 1987.

ADDRESSES: Comments on this notice must refer to the docket and notice numbers set forth above and can be submitted (preferably in 10 copies) to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. Submissions containing information for which confidential treatment is requested should be submitted (3 copies) to Chief Counsel, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street SW., Washington, DC 20590, and 7 additional copies from which the purportedly confidential information has been deleted should be sent to the Docket Section.

FOR FURTHER INFORMATION CONTACT: Charles L. Gauthier, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202/366–4805).

SUPPLEMENTARY INFORMATION: Title II of the Motor Vehicle Information and Cost Savings Act (Pub. L. 92–513) requires the development and dissemination of comparative information on the crashworthiness, damage susceptibility, and ease of diagnosis and repair of motor vehicles. The foundation of Title II is the belief that, if consumers have valid comparative information on important motor vehicle characteristics, they will use that information in their vehicle purchase decisions, thereby encouraging motor vehicle manufacturers to improve the safety and reliability of their products. The experimental New Car Assessment Program (NCAP) addresses the crashworthiness ratings aspect of Title II by providing comparative safety performance information, in the form of dummy injury measurements, on selected vehicles which are crashed head-on into a fixed barrier at 35 mph. Consumers are informed of this crashworthiness information through news releases, the NHTSA Hotline, and media coverage of NCAP test results.

On several occasions manufacturers have made small but significant production line changes to vehicles to improve the performance of the vehicles in the NCAP test. When these vehicles were retested subsequently in NCAP, the production changes made noticeable improvements in the dummy injury measurements. However, because limitations on agency resources preclude immediate retest by the agency of every redesigned vehicle, consumers do not always learn about the improved vehicle performance. Consistent with its resources and its statutory mandate, the agency wishes to encourage manufacturers who have a strong interest in the performance of their vehicles in NCAP to continue to improve the performance of their vehicles. To inform consumers promptly about improved NCAP test results for previously tested vehicles and to maintain NCAP data as current as possible, such information should be made available as quickly as possible. For these reasons, the agency believes that the public interest would be served if it provided a means of public dissemination of new NCAP data obtained through an optional manufacturer-conducted test program proposed by the agency.

As noted above, the agency is not generally in a position to allocate funds and personnel to conduct a restest of an "improved" vehicle. In such situations, the agency is proposing that if a manufacturer retests an "improved" vehicle at its own expense and under strict conformance to NHTSA criteria (discussed below), the agency would publish the test results as part of an NCAP press release. These results would be annotated in some manner so that consumers would be aware that production changes were made to a model which was crashed in an earlier NCAP test. Comments are sought on how best to identify manufacturer data in the press release.

The criteria proposed by the agency for the optional NCAP crash test program for manufacturers would ensure comparability to the results obtained in government-conducted NCAP tests and would be strictly observed by a manufacturer that wished its test results to be publicized by the agency. The proposed criteria are as follows:

1. The manufacturer must provide technical data to the agency which describes the production design changes made to the vehicle, reasons why such changes are likely to significantly improve NCAP results and estimated or actual test results expected by the

manufacturer if the vehicle were retested. If changes have not been made to the vehicle subsequent to its NCAP test, the agency will not publish the retest results under this program. The agency is interested in comments on establishing a minimum level of improvement for publication under this program.

2. The test must be conducted at an independent test facility which has the capability of conducting crash tests in conformance with the NCAP test procedures. The agency is interested in comments on establishing objective standards for assessing the NCAP capability of a test facility.

3. The current NCAP test procedures as specified in Docket 79–17 must be used.

4. NHTSA will be notified of the day and time of the test and prior test preparation activities, and will have a representative present for the actual crash test and any vehicle/dummy preparation.

5. Public confidence in the program and the published results require that there be no possibility that a manfacturer could preselect the individual vehicle to be tested. Therefore, the test vehicle must be purchased at random by the test laboratory from a dealer. The agency wishes to emphasize that vehicle changes incorporated in the test vehicle must be production changes. Therefore, the test vehicle should be available at any dealership.

6. The electronic test data, test films, and test report must be completed according to the current NCAP test procedures. Copies of the electronic test data, test films, and test report are provided directly to NHTSA for analysis and validation in accordance with current agency procedures.

7. After validation, the test results would be published as part of NCAP results, along with a summary of the production changes made to the vehicle.

8. Manufacturers must agree in advance that, absent violations in the test protocol or equipment failure, the test results will be made publicly available regardless of their magnitude.

The intent of the above criteria is to ensure that vehicle retests which are arranged by manufacturers at their expense are conducted as identically as possible to the original NCAP test sponsored by NHTSA. Thus, random purchase of test vehicles, independent laboratory testing, and publication of results (no matter what they might be) must be assured. The benefits of such a program are timely and up-to-date crashworthiness data provided to consumers, fairness to manufacturers which have made vehicle safety improvements by replacing outdated data, and minimum expense to the taxpayers.

Interested persons are invited to submit comments on NHTSA's proposed optional NCAP test program as discussed above. Although the agency is currently considering adopting the program for vehicles previously tested in NCAP, comments are also requested on whether such data should be accepted for vehicles which were *not* previously tested in NCAP. Adoption of this second course of action could result in an expansion of the number of vehicles for which NCAP-type data would be available for consumers while minimizing the Government's cost of obtaining such data.

It is requested but not required that 10 copies of comments be submitted. A 45-day comment period is provided. All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21) Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies, from which proportedly confidential information has been deleted, should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be accepted, and will be available for examination in the docket at the above address both before and after that date. The agency will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material. Those persons desiring to be notified upon receipt of their comments in the public docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Issued on November 13, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86–26068 Filed 11–18–86; 8:45 am]

BILLING CODE 4910-59-M

Office of Commercial Space Transportation

[Notice No. 86–13; Docket 43810]

Expendable Launch Vehicle Program; Finding of No Significant Impact

AGENCY: Department of Transportation.

ACTION: DOT notice of finding of no significant impact (FONSI).

SUMMARY: DOT is issuing this notice to advise the public that a finding of no significant impact has been made on the expendable launch vehicle program.

SUPPLEMENTARY INFORMATION: On February 26, 1986[1] the Office of Commercial Space Transportation issued an Interim Final Rule setting forth licensing regulations for commercial space launch activities. Commercial Space Launch Act of 1984, Pub. L. 98–575 (the Act) authorizes the Secretary of Transportation (the Secretary) to oversee and coordinate commercial launch activities.

The regulations establish general procedures for the Office, set forth policy and procedures for licensing commercial launch activities, and prescribe general standards and information requirements for launch license applications. Taken together, these provisions constitute the Office's administrative framework for ensuring safe and responsible commercial launch activities and eliminating regulatory obstacles to the development of private launch and launch support services.

The Finding of No Significant Impact is based on the Office's environmental assessment of the commercial space transportation program. This programmatic assessment identified the impacts that the conduct of commercial launch activities would have on the human environment. None of these were significant. However, certain factors associated with individual launch proposals were not addressed in the assessment and may require further review during the licensing process. These include use of new propellants, new site development, or environmental effects associated with some payloads in the event of a launch accident.

FOR FURTHER INFORMATION CONTACT: Norman Bowles, Senior Regulatory

[1] Published at 51 FR (6869) February 26, 1986.

Specialist, Office of Commercial Space Transportation, (202) 366–5770, or Gerald Musarra, Office of the General Counsel, (202) 366–9305, Department of Transportation, Washington, DC 20590.

Dated: November 3, 1986.

Donald R. Trilling,

Acting Deputy Director, Office of Commercial Space Transportation.

[FR Doc. 86–26067 Filed 11–18–86; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular—Public Debt Series—No. 37–86]

Treasury Notes of November 30, 1988, Series AG–1988

Washington, November 13, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $10,250,000,000 of United States securities, designated Treasury Notes of November 30, 1988, Series AG–1988 (CUSIP No. 912827 UG 5), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner discribed below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated December 1, 1986, and will accure interest from that date, payable on a semiannual basis on May 31, 1987, and each subsequent 6 months on November 30 and May 31 through the date that the principal becomes payable. They will mature November 30, 1988, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry from in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer from.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Standard time, Wednesday, November 19, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, November 18, 1986, and received no later than Monday, December 1, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Other are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commerical bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to whch tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be

accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action muder this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Monday, December 1, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, November 26, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, December 1, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86-26151 Filed 11-17-86; 10:41 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 223
Wednesday, November 19, 1986

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 DEPOSIT INSURANCE CORPORATION:

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:20 p.m. on Thursday, November 13, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in the Hoxie State Bank, Hoxie, Kansas, which was closed by the State Bank Commissioner for the State of Kansas on Thursday, November 13, 1986; (2) accept the bid for the transaction submitted by Prairie Bank, Hoxie, Kansas, a newly-chartered State nonmember bank; (3) approve the applications of Prairie Bank, Hoxie, Kansas, for Federal deposit insurance and for consent to purchaase certain assets of and assume the liability to pay deposits made in The Hoxie State Bank, Hoxie, Kansas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration for the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in room 6020 of the FDIC Building located at 550—17th Street, NW., Washington, DC

Dated: November 14, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-26160 Filed 11-17-86; 10:55 am]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM, BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, November 24, 1986.

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: November 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-26118 Filed 11-17-86; 9:10 am]

BILLING CODE 6210-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 17, 24, December 1, and 8, 1986.

PLACE: Commission' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of November 17

Wednesday, November 19

10:00 a.m.
Disussion of Pending Investigations (closed—Ex. 5 & 7)
2:00 p.m.
Briefing in Advance of Publication of Draft NUREG-1150 (Source Term) (Public Meeting)

Thursday, November 20

10:00 a.m.
Briefing on Initiatives to Improve Maintenance Performance (Public Meeting)
2:00 p.m.
Periodic Meeting with NUMARC (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, November 21

10:00 a.m.
Discussion/Possible Vote on Davis Besse Restart (Public Meeting)

Week of November 24—Tentative

Wednesday, November 26

10:00 a.m.
Briefing by Executive Branch (Closed—Ex. 1)
11:00 a.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of December 1—Tentative

Wednesday, December 3

10:00 a.m.
Briefing by Steering Group on Strategic Planning (Public Meeting)

Thursday, December 4

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of December 8—Tentative

Wednesday, December 10

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, December 11

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Affirmation of "Commission Decision in Uranium Miller's Hearing (In the Matter of American Nuclear Corporation et al. Docket No. 40-4492 et al.) (Public Meeting) is scheduled for November 14.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634-1410.

Robert B. McOsker,

Office of the Secretary.

November 13, 1986.

[FR Doc. 86-26179 Filed 11-17-86; 3:37 pm]

BILLING CODE 7590-01-M

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 9 a.m. (e.s.t.), Friday, November 21, 1986.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill drive, Knoxville, Tennessee.

STATUS: OPEN.

AGENDA

Approval of minutes of meeting held on October 31, 1986.

Discussion Item

1. Regional Industrial Development Information Management System. Staff will discuss the objectives and capabilities of the Regional Industrial Development Information Management System, a new project designed to introduce the use of microcomputers at industrial development offices to provide ready access to information necessary to help recruit new industry to the Tennessee Valley region.

Action Items

Old Business

*1. Supplement to Personal Services Contract No. TV-68867A with Coopers & Lybrand, Knoxville, Tennessee, for Professional Accounting and Specialized Consultation Services, Requested by the Comptroller.

*2. Supplement to Personal Services Contract No. TV-69344A with Coopers & Lybrand, Knoxville, Tennessee, for Services of Qualified Personnel to Provide Assistance to TVA in the Design and Implementation of an Accounting Information System, Requested by the Comptroller.

New Business

A—Budget and Financing

A1. Adoption of Supplemental Resolution Authorizing 1986 Series F Power Bonds.

A2. Resolution Authorizing the Chairman and Other Executive Officers to Take Further Action Relating to Issuance and Sale of 1986 Series F Power Bonds.

A3. Modification of Fiscal Year 1987 Capital Budget Financed from Power Proceeds and Borrowings—Replacement of Upper Waterwalls, Radiant Reheater, Extended Sidewall and Roof Tubes in Widows Creek Fossil Plant, Unit 7.

B—Purchase Awards

B1. Negotiation GG-463546—Indefinite Quantity Term Agreement for Genuine Pennsylvania Crusher Repair Parts for all Power Storerooms, Excluding Nuclear Power Storerooms.

*Item approve by individual Board members. This would give formal ratification to the Board's action.

B2. Invitation YB-101636—Direct Digital Monitoring and Control System for Power System Control Center.

B3. Req. 15—Term Coal for John Sevier Steam Plant.

C—Power Items

C1. Supplement No. 4 to Contract No. TV-62311A Between Tennessee Emergency Management Agency and TVA for Cooperation in the Development and Implementation of Radiological Emergency Plans as Required by the Nuclear Regulatory Commission and the Federal Emergency Management Agency.

C2. Supplement No. 6 to Subagreement No. 1 Under the Technical Assistance Plan and Interagency Agreement between TVA and United States Department of Energy (TV-68345A) for TVA Weld Quality Evaluation for Watts Bar Unit 1.

D—Personnel Items

D1. Consulting Contract with James R. McGuffey, Knoxville, Tennessee, to Provide Consulting Services in Connection with Issues Related to Welding Review Activity at Watts Bar Nuclear Plant, Requested by Office of Nuclear Power.

D2. Consulting Contract with Roy B. McCauley Associates, Worthington, Ohio, to Provide Expert Consulting Services in Connection with Issues Related to Welding Review Activity at Watts Bar Nuclear Plant, Requested by Office of Nuclear Power.

D3. Consulting Contract with Aptech Engineering Services, Inc., Palo Alto, California, to Provide Consulting Services in Connection with Issues Related to Welding Review Activity at Watts Bar Nuclear Plant, Requested by Office of Nuclear Power.

D4. Consulting Contract with Ammann & Whitney Consulting Engineers, New York, New York, for Edward Cohen to Serve as a Consultant Concerning Adequacy of Concrete at Watts Bar Nuclear Plant, Requested by Office of Nuclear Power.

D5. Supplement No. 2 to Personal Service Contract No. TV-6740A with General Physics Corporation, Columbia, Maryland, for Engineering and Related Support to the Technical Services Group at Browns Ferry Nuclear Plant, Requested by Office of Nuclear Power.

D6. Consulting Contract with Cataract, Inc., Newtown, Pennsylvania, for Donald B. Weaver to serve as a consultant in connection with the Atmospheric Fluidized Bed Combustion Project, Requested by Division of Energy Demonstrations and Technology, Office of Power.

E—Real Property Transactions

E1. Grant of Permanent Easement to City of Decatur, Alabama, for Public Recreation, Affecting 375 Acres of Wheeler Reservoir Land in Morgan County, Alabama (Point Mallard Park)—Track No. XTWR-83E.

E2. Sale of Permanent Easement to Eugene Brumbaugh for a Commercial Building, Affecting Approximately 0.05 Acre of Chatuge Reservoir Land In Towns County, Georgia—Track No. XCHR-75B.

E3. Sale of Term Easement Extension to North Alabama Shipping and Mining, Incorporated, for Barge Terminal, Affecting Approximately 3.4 Acres of Guntersville Reservoir Land in Jackson County, Alabama—Track No. XGR-7201E.

E4. Filing of Condemnation Cases.

F—Unclassified

F1. Authority to Write Off Uncollectible Accounts Receivable.

F2. Fertilizer Distribution Agreement with Laroche Industries, Inc., Atlanta, Georgia.

F3. Amendments to Terms and Conditions of the Voluntary Retirement Savings and Investment Plan for Members of the TVA Retirement System.

F4. Appointment of Paul R. Shlemon as Designated Agency Ethics Official.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: November 14, 1986.

W.F. Willis,

General Manager.

[FR Doc. 86-26159 Filed 11-17-86; 10:51 am]

BILLING CODE 8120-01-M

Corrections

Federal Register
Vol. 51, No. 223
Wednesday, November 19, 1986

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency-prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Implementation of Special Refund Procedures

Correction

In notice document 86–25180 beginning on page 40503 in the issue of Friday, November 7, 1986 make the following correction:

On page 40507, in the second column, in paragraph (1), in the fifth line, "not" should read "now".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–51639; FRL–3077–9]

Certain Chemical Premanufacture Notices

Correction

In notice document 86–20366 beginning on page 32245 in the issue of Wednesday, September 10, 1986, make the following correction: On page 32245, in the third column, in the **SUMMARY** paragraph, in the fifth line, after "premanufacture" insert "notice (PMN) to EPA at least 90 days before manufacture".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 83P–0003 et al.]

Approved Variances for Sunlamp Products; Availability

Correction

In notice document 86–20842 beginning on page 32847 in the issue of Tuesday, September 16, 1986, make the following correction:

On page 32848, in the table, in the entry for Docket No. 85V–0193, in the second column, "Eurton" should read "Eurotan".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–943–06–4220–10]

Public Lands in Nevada; Notice of Proposed Withdrawal

Correction

In notice document 86–18800 appearing on page 29705 in the issue of Wednesday, August 20, 1986, make the following corrections:

1. In the first column, under "T. 6 N., R. 33 E.," in the second line of "Sec. 24", add ", SW1/4;" at the end of the line.

2. In the second column, the FR Doc. number should read "86–18800".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD02 86–02]

Drawbridge Operation Regulations; Tennessee River, TN

Correction

In rule document 86–20479, beginning on page 32319, in the issue of Thursday, September 11, 1986, make the following correction:

§ 117.949 [Corrected]

On page 32320, first column, first line in the section heading, "Cumberland" should read "Tennessee".

BILLING CODE 1505-01-D

Federal Register

Wednesday
November 19, 1986

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 14

Federal Acquisition Regulation (FAR); Release of Solicitation Mailing Lists; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 14

Federal Acquisition Regulation (FAR); Release of Solicitation Mailing Lists

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 revision to Federal Acquisition Regulation (FAR) 14.205–5 to clarify that contracting offices may require written requests for the release of lists of prospective bidders furnished copies of plans and specifications on construction contracts. This revision is considered to be nothing more than a clarification of existing regulations and therefore does not require publication for public comment. However, any comments received before the expiration date of the public comment period will be considered in the formulation of the final rule.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 20, 1987, to be considered in the formulation of a final rule.

ADDRESS: 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 86–59 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) does not apply because the proposed revision is not a "significant revision" as defined in FAR 1.501–1; i.e., it does not alter the substantive meaning of any coverage in the FAR having a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98–525 and section 302 of Pub. L. 98–577 pertaining to publication of proposed regulations (as implemented in FAR Subpart 1.5, Agency and Public Participation), solicitation of agency and public views on the proposed revision is not required. Since such solicitation is not required, the Regulatory Flexibility Act does not apply. Although such solicitation is not required, comments are invited.

B. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the proposed revision to FAR 14.205–5 does not impose any additional reporting or recordkeeping 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 14

Government procurement.

Dated: November 12, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 14 be amended as set forth below:

PART 14—SEALED BIDDING

1. The authority citation for Part 14 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 14.205–5 is amended by adding in paragraph (b) a final sentence to read as follows:

14.205–5 Release of solicitation mailing lists.

* * * * *

(b) * * * Contracting offices may require written requests and establish appropriate procedures.

[FR Doc. 86–26058 Filed 11–18–86; 8:45 am]

BILLING CODE 6820–61–M

Federal Register

Wednesday
November 19, 1986

Part III

Environmental Protection Agency

40 CFR Part 261

Identification and Listing of Hazardous Waste; Used Oil; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL-3114-9]

Identification and Listing of Hazardous Waste; Used Oil

AGENCY: Environmental Protection Agency.

ACTION: Decision not to adopt proposed rule; tentative schedule to address issues still outstanding.

SUMMARY: The Agency has determined that used oil being recycled should not be listed as a hazardous waste under the Resource Conservation and Recovery Act (RCRA). EPA intends, however, to issue recycled oil management standards and is conducting studies necessary to determine what standards are appropriate under section 3014 of RCRA. EPA is also conducting certain studies to determine whether used oil being disposed of, i.e., not being recycled, should be listed as a RCRA hazardous waste, or whether it should be regulated instead under different statutes. This notice describes those studies currently underway and sets forth a tentative schedule describing when the Agency will address those issues still outstanding.

ADDRESS: Information sources used to develop this notice are available for public inspection at: EPA RCRA Docket (Sub-basement), 401 M Street SW., Washington, DC 20460.

For a listing of supporting documents and procedures for reviewing documents, see the "Supporting Documents" section in "Supplementary Information," below.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline, toll free at (800) 424–9346 or at (202) 382–3000. For technical information, contact Robert April, Chief of the Capacity and Storage Section, U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Telephone (202) 382–7917. Single copies of this notice may be obtained from the RCRA Hotline at the number above.

SUPPLEMENTARY INFORMATION:

Outline of Today's Notice

I. Background
II. Decision Not To List Recycled Oil as a Hazardous Waste
A. Threshold Legal Questions
B. Basis for Not Listing Recycled Oil
III. Strategy To Control Used Oil Bound for Disposal
IV. Strategy To Control Used Oil Recycling
V. New Schedule
VI. CERCLA Reportable Quantities Proposal
VII. Supporting Documents
VIII. List of Subjects

I. Background

Section 3012 of RCRA, added to the statute by the Used Oil Recycling Act of 1980 and amended (and re-designated as section 3014) by the 1984 RCRA amendments, directs the Administrator to "promulgate regulations . . . as may be necessary to protect human health and the environment from hazards associated with recycled oil. In developing such regulations, the Administrator shall conduct an analysis of the economic impact of the regulations on the oil recycling industry. The Administrator shall ensure that such regulations do not discourage the recovery or recycling of used oil consistent with the protection of human health and the environment." Section 1004 of RCRA defines both "used oil" and "recycled oil." The term "recycled oil," and the phrase, "used oil recycling," include used oil being reused for any purpose, including used oil being refined or being processed into fuel. Also included, as EPA reads the statute, is used oil being stored, collected, or otherwise being managed *prior* to recycling. (See 50 FR 49216; November 29, 1985).

The statute requires EPA to make a determination as to whether to list used oil as a hazardous waste under RCRA section 3001. Section 8 of the Used Oil Recycling Act directs EPA to consider effects on recycling in determining whether to list. EPA was required to propose whether to identify or list used automobile and truck crankcase oil by November 8, 1985, and to make a final determination as to whether to identify or list any or all used oils by November 8, 1986. EPA is also to promulgate management standards by November 8, 1986 for recycled oil that is identified or listed. EPA's authority to regulate recycled oil, however, is not dependent on a hazardous waste listing. (See the discussion at 50 FR 1691; January 11, 1985.)

The statute thus carves out a special niche for recycled oil in Subtitle C that differs from all other wastes. Recycled oil is to be regulated under a special set of rules, effects on recycling must be taken into account in listing and regulating recycled oil, and EPA retains authority to regulate recycled oil under Subtitle C whether or not it is identified or listed as hazardous.

EPA has met some of these deadlines, and complied partially with the others. The Agency has issued final regulations prohibiting the burning of off-specification used oil in non-industrial boilers (50 FR 49064, November 29, 1985). Marketers of used oil fuel and burners of off-specification fuel must notify EPA of their activities and comply with certain notice and record keeping requirements. (Id.) The Agency has proposed to list all used oils as hazardous waste (50 FR 49258, November 29, 1985). EPA also proposed comprehensive management standards for recycled oil on the same date (50 FR 49212).

EPA received a great many comments on the proposed used oil management standards and listing. Most of these comments criticized the proposals, especially the proposed listing of used oil as a hazardous waste. The ultimate thrust of the negative comments was that the listing would not only discourage used oil recycling, but would ultimately be environmentally counterproductive because used oil left unrecycled would be disposed of in manners posing greater risk than recycling. Additionally, although many commenters supported, in general, the need for regulation of used oil (including management standards for recycled oil), some commenters indicated that certain of the proposed management standards would also discourage recycling. Particular negative factors singled out by commenters were the stigmatizing effect of a listing, and strict regulation of burners who have an easily-available virgin fuel substitute.

EPA responded with a supplemental notice of data availability (51 FR 8206; March 10, 1986). In that notice, the Agency requested comments on the option of regulating recycled oil without identifying or listing recycled oil as a hazardous waste, and listing used oil being disposed of as hazardous waste. Most commenters supported this option as a preferable alternative to listing all used oil.

Since the November 1985 and March 1986 notices, there have been a number of developments relevant to the proposals. First, EPA has investigated some of the major issues raised in the comments, including the effects of crude oil price drops on used oil recycling and the potential impacts of stigma associated with a hazardous waste listing. Second, Congress has exhibited continued interest in this area. The House Subcommittee on Energy, Environment, and Safety Issues Affecting Small Business held a used oil hearing on May 19, 1986. The Subcommittee's preliminary findings were that EPA's proposal would be counterproductive, due to adverse impacts that would follow a hazardous waste listing. (See the letter from Honorable Charles W. Stenholm, dated

6/18/86.) In addition, under the recently reauthorized Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or "Superfund"), certain generators of recycled oil would be eligible for a limited exclusion from CERCLA liability. Further, RCRA sections 3006 and 3008 were amended so that recycled oil would be subject to RCRA State authorization and criminal enforcement provisions whether or not it is listed or identified as a hazardous waste.

EPA has also conducted field studies in states where used oil has been listed as hazardous waste under State law. In general, we found that it was typical for used oil to be shipped from these States into States where used oil is not regulated. Finally, a series of information bulletins have been distributed to used oil generators and recyclers to clarify ambiguities in the present and proposed regulations. For example, EPA reiterated that industrial burners may burn used oil even if it is off-specification, provided that they notify EPA of their waste-as-fuel activities. Further, we reiterated that used oil is not now a hazardous waste, and notification does not create hazardous waste legal obligations. Copies of the information bulletins may be obtained by calling the RCRA Hotline at (800) 424–9346, or (202) 382–3000. For public review of the studies and other documents referenced above, see the "Supporting Documents" section below.

II. Decision Not to List Recycled Oil as a Hazardous Waste

As explained more fully below, EPA is meeting part of its statutory deadline of determining whether to list used oil by deciding not to list used oil being recycled, or being sent for recycling, as a hazardous waste. We have determined that listing recycled oil would discourage recycling of used oil. Our further concern is that displacement of this used oil from recycling could cause an increased quantity of used oil to be disposed of in uncontrolled ways, causing harm to the environment. This increased disposal could result from decreased use of used oil as fuel by industrial burners and decreased acceptance of do-it-yourselfer oil by service stations (and similar establishments), both attributable to costs and stigma associated with listing.

Balanced against the environmental harm likely to be associated with listing recycled oil is the fact that EPA can regulate used oil recycling without a listing. The quantity of used oil in question, absent the listing, would most likely be burned. Burning of used oil is now partially controlled under a combination of RCRA and Clean Air Act regulations, and EPA is conducting studies to determine what additional controls, if any, are necessary to adequately protect human health and the environment from the hazards associated with used oil burning. Listing recycled oil as a hazardous waste, however, is not necessary to promulgate additional rules for recycled oil. Therefore, we have concluded that the listing would discourage recycling, and, since listing is not necessary to regulation, have further concluded that listing could pose a net detriment to the environment.

The remainder of this unit of the preamble explains in more detail the Agency's decision not to list recycled oil. First, we address certain threshold legal questions the decision presents. Second, we discuss in detail the basis for the decision.

A. Threshold Legal Questions

1. Non-Technical Grounds for Listing Determination

In the past, EPA has based its decision as to whether to list a waste as hazardous purely on a technical determination of whether the waste satisfies the criteria for listing contained in § 261.11(a)(3), which implements RCRA section 3001. These criteria involve considerations of the hazards of the waste.

Our decision today is not based on the hazards of recycled oil. Rather, we believe that listing would discourage recycling of used oil and could have an environmentally counterproductive effect. We believe the statute indicates explicitly that the Agency is to consider effects on recycling in deciding whether to list recycled oil. Section 8 of the Used Oil Recycling Act (Pub. L. 96–463, section 8) states specifically that in determining whether or not to list used oil as a hazardous waste, "the Administrator shall ensure that the recovery and reuse of used oil are not discouraged." This provision was left unamended in 1984 and appears to the Agency to state clearly that non-technical factors, to the extent they bear on recycling of used oil, must be evaluated in determining whether to list recycled oil.

We note further that Congress has expressly provided EPA with authority to regulate recycled oil under Subtitle C whether or not recycled oil is identified or listed (section 3014(a); cf. H.R. Rep. No. 198, 98th Cong., 1st Sess. (69)). Recycled oil is the only type of waste for which this is the case. Since listing is not necessary to ensure Subtitle C regulatory control, EPA believes that the decision is more discretionary than other listing decisions and EPA can legitimately consider such non-technical factors as the effect on recycling and ultimate environmental effect of a listing determination.

The language of section 3014, taken as a whole, further reinforces our view that the Agency is to consider non-technical factors in determining whether to list. The sense of the statute is that EPA must look to the effect its regulations have on used oil recycling and protection of human health and the environment. An action which discourages recycling so as to cause, on balance, an environmentally-detrimental effect would not satisfy the statutory mandate. EPA believes that listing of recycled oil as a hazardous waste would probably be such an action. Congress appears to have allowed for this possibility by directing EPA to consider effects on recycling when determining whether to list, and providing the Agency alternative regulatory authorities to control recycled oil which is not identified or listed.

2. Authority to Make Identification and Listing Determinations Specific to Used Oil Being Disposed of

A second question is whether the Agency can make separate listing determinations for used oil being recycled and being disposed of. The Agency believes such an approach is allowable under the statute, largely for the same reasons discussed above. Congress directed the Agency to consider effects on recycling and ultimate environmental effects in developing recycled oil regulations. Listing recycled oil bears on these concerns. Congress also provided express authority over recycled oil not identified or listed as hazardous, another clear indication that recycled oil and other used oil can be classified differently. Congress has also recently stated, in the Conference report to the CERCLA amendments, that it was aware that EPA might not list recycled oil. Far from disapproving, Congress amended sections 3006 and 3008 for RCRA to provide for criminal enforcement and state authorization authority for recycled oil not identified or listed. Clearly, Congress sees no bar in distinguishing between recycled oil and other used oil when listing.

The Agency does not regard today's action as setting precedents for listing or identifying any other types of hazardous wastes. As explained above, recycled oil occupies a unique position in the

Subtitle C structure, and is to be accorded distinct regulatory treatment. Our action is predicated on these distinctions and our conclusion that protection of human health and the environment is best served by regulating recycled oil without listing it as a hazardous waste.

B. Basis for Not Listing Recycled Oil

EPA has determined that recycled oil should not be listed as a hazardous waste. This determination is based on our conclusion that a listing could lead to major disruptions in the established used oil recycling system in the United States, and our further concern that such disruption could ultimately lead to significant amounts of used oil being disposed of in unsound ways. This finding caused EPA to reconsider the need for a listing, given the authority granted by RCRA section 3014(a), under which EPA may regulate recycled oil with or without a listing. [See the discussion above]. We are announcing the "no listing" decision today to clear up uncertainty experienced by the many affected parties. The supporting data and rationale for the no listing determination follow.

1. Public Comments

EPA was deluged with hundreds of comments opposing the listing of recycled used oil as a hazardous waste. In fact, of the over 800 public comments EPA received on its 11/29/85 used oil proposal (and the 3/10/86 supplementary notice), by far the most common comment was that listing recycled oil would disrupt established collection and recycling networks and ultimately lead to improper used oil disposal. EPA is particularly impressed by the broad range of parties who expressed this concern. In addition to generators and recyclers of used oil, some of the comments were from private groups and from State and local governments who have set up do-it-yourself (DIY) collection centers and who claimed that a listing would impair or put an end to such efforts. A central theme of the commenters' line of reasoning (although not fully articulated in all of the submissions) is that a successful national used oil recycling system depends on *voluntary* participation of private parties at certain crucial points, and that a recycled oil listing would seriously deter this participation.

Commenters cited concerns with CERCLA liability, with insurance rates, public and employee relations, and the "derived-from" rule (which provides that any waste generated by the treatment of a listed hazardous waste is iteself presumed to be hazardous). Parties whose participation was cited as likely to cease were service stations and others who act as DIY collection centers, and industrial fuel users. In the former case, commenters stressed that DIYs would have no place to take their used oil and would likely place it in their household garbage, down sewers, or dump it on the ground. In the latter case, commenters argued that industrial fuel is the major use of used oil, and given the nation's currently limited re-refining capacity (and the recent fall in oil prices), refusal of industrial burners to accept used oil fuels would cause "backups" throughout collection networks and ultimately could lead to unsound disposal (by generators left without a recycling outlet).

2. EPA Studies

In its initial proposal, EPA did not evaluate the effects listing might have on used oil recycling, believing that effects would result from imposition of management standards, 50 FR 49260. When commenters indicated that listing alone, apart from imposition of standards, could seriously discourage recycling, EPA conducted studies over the past several months to try to determine to what extent commenters' arguments could be corroborated, and what the environmental consequences could be if these claims were to become reality. We note that there is a distinct limit to the extent quantification is possible here, since to some extent what is involved is an emotional reaction, unquantifiable by its very nature. With this caveat, as explained below, EPA has estimated some of the magnitude of disruption reasonably likely to occur due to a recycled oil listing. Because much of this analysis involves a modeling of human behavior and predictions about recently volatile prices of crude oil, the estimates are only rough aproximations of what might occur. Nonetheless, the dislocations in the recycling market and the adverse impacts which could result are cause for serious concern. For public review of these studies, see the "Supporting Documents" section below.

a. *Burner notifications.*

In the Regulatory Impacts Analysis to support the 11/29/85 prospoal, EPA predicted that over 2,000 establishments would burn off-specification used oil as fuel, despite the listing of used oil as hazardous waste and the regulation of used oil burners. EPA has reviewed the notifications received from used oil burners (required by § 266.44(b), in rules issued final on 11/29/85 at 50 FR 49164) to determine whether such an estimate is correct. Through October 1986, only about 500 burner notifications have been received. Although much of the disparity is likely due to the availability of low priced virgin fuel oils, burners' concerns over the proposed listing and certain of the proposed management standards also seem to have caused reluctance to purchase used oil fuels. See, for example, comments of the National Asphalt Pavement Association (NAPA), dated 4/9/86. NAPA members burn large amounts of used oil and their comments indicate there would be reduced use of used oil as fuel if recycled oil is listed (or if certain management standards are imposed).

b. *Oil displacement.* EPA conducted analyses showing that, even in the absence of substantive controls on recycled oil, the listing of recycled oil as hazardous waste could cause an additional 61–128 million gallons per year (MGY) of used oil to be disposed of in uncontrolled ways, an increase of approximately 22–47 percent over baseline conditions. [The results presented here are from the report, by Temple, Barker, and Sloane, Inc., *Analysis of Possible Market Impacts Resulting from Stigmatizing Effects of Listing Recycled Oil,* dated November, 1986.] This disruption is attributable both to direct economic effects (e.g., costs of managing combustion residues as hazardous wastes) as well as psychological effects such as public relations problems, etc., which may translate into economic effects (e.g., the cost of an asphalt company hiring a community relations specialist to allow continued burning of used oil fuel). Some element of disruption could also result for non-economic reasons, with persons opting out of the recycled oil system to avoid handling a "hazardous waste." EPA has determined that the costs and stigma associated with listing recycled oil could significantly reduce the demand for used oil fuel. Re-refining would not be able to expand (at least in the short term) to the extent necessary to absorb all of the used oil displaced from burning. Generators would then have difficulty in finding recyclers willing to accept their used oil; and as a result, commercial auto centers would likely refuse to accept DIY-generated used oil and significantly increase the price charged for oil change services offered to the public. Reduced availability of DIY oil collection centers and higher oil change price for the public would increase DIY oil changes and would ultimately lead to increased uncontrolled disposal of used oil.

c. *Environmental hazards.* The release of 61–128 MGY of used oil into the environment would very likely

threaten ground and surface waters with oil contamination, thereby endangering drinking water supplies and aquatic life. EPA was not able to quantify the environmental harm these releases could pose, but to put the quantities in perspective, one may note that the amount of oil accidentally spilled onto the territorial waters of the U.S. each year is typically only 10–20 MGY. [See the EPA Report to Congress, *Listing Waste Oil as a Hazardous Waste* (SW–909), January 1981, p. 9] Clearly, the displacement of used oil potentially associated with a recycled oil listing is cause for serious concern.

3. Administrative Concerns

In the **Federal Register** of March 10, 1986 (51 FR 8207), EPA indicated it was concerned that regulations issued for recycled oil not accompanied by listing recycled oil would be difficult to implement effectively because EPA would lack full RCRA State authorization and criminal enforcement authorities. EPA notes, however, that as part of the CERCLA Reauthorization, Congress amended RCRA to provide state authorization and criminal enforcement authorities for recycled oil not listed as a hazardous waste. (RCRA sections 3006 and 3008, as amended by section 205(i) of the Superfund Amendments Reauthorization Act.) These administrative concerns, then, are no longer valid.

4. Conclusion

The Agency cannot responsibly ignore the many comments urging us not to list recycled oil. Although analysis of the impacts of such a listing is difficult, we are today making such a decision based on the best available information. The Agency finds inherently reasonable the argument that listing will discourage voluntary participation in the used oil recycling system. There are objective costs associated with listing recycled oil: residues from use are automatically hazardous wastes (absent delisting), and recycled oil not already a CERCLA hazardous substance necessarily becomes one. The stigma associated with designation as a hazardous waste, although difficult to quantify, is neverthless sufficiently apparent on this record for legitimate Agency concern. The Agency further believes that initial recycled oil collectors (particularly DIY oil collectors) and end users (particularly used oil fuel users) are the entities in the used oil recycling system particularly likely to cease recycling when faced with these kinds of pressures because they have easily available options which do not require utilization of recycled oil. This is particularly true of used oil burners.

Although not strictly necesssary as a ground for decision, the Agency believes it prudent to consider the environmental effects of these possible large-scale dislocations. On this record, the Agency believes that given the present lack of re-refining capacity, significant shortfalls in burner capacity could cause recycled oil to back up through the system. It appears that such a shortfall has been developing since the proposal. This type of backup could lead to eventual unsound disposal with significant environmental detriment as generators are left without a recycled outlet. Indeed, this precise concern is raised in the legislative history of the 1984 amendments, with the conclusion that such dumping would "defeat the purposes of this legislation." H. Rep. No. 198, 98th Cong. 1st Sess. at 65; *see also id.* at 66 ("used oil ordinarily handled by [generators] certainly will be dumped if regulations are unduly stringent."). The Agency believes that this additional, mostly uncontrolled, disposal could pose a net detriment to the environment. This oil, if not for the listing, would probably be burned. Used oil burning is partially controlled now under the RCRA section 3014(a) rules promulgated on November 29, 1985 (50 FR 49164). These rules prohibit the most harmful practice, i.e., burning of off-specification fuel in nonindustrial boilers. Industrial burners may burn off-specification fuel provided they comply with the mainly administrative requirements of 40 CFR 266.44. Id. at 49195. We note that many industrial burners of used oil, such as new asphalt plants, have air pollution control equipment in place (due to Clean Air Act requirements that reduce risks from emissions. The Agency is currently conducting studies to determine if additional controls are necessary. (This is described in section IV of this preamble, below.) To the extent that additional requirements are deemed necessary, EPA can further control industrial burning under RCRA section 3014(a) *without* a listing. Therefore, the listing would increase disposal and cause adverse environmental effects without providing environmental benefits. The Agency's studies cited earlier corroborate this premise.

III— Strategy To Control Used Oil Bound For Disposal

EPA is currently considering options to control the disposal of used oil using one or more of several possible statutes. We continue to believe that improper disposal of used oil can cause serious environmental problems. Most commenters, in fact, supported this conclusion. The Agency believes, however, that some options not previously evaluated may achieve better environmental results as compared to the proposed RCRA hazardous waste listing. We are currently investigating whether disposal of used oil can be controlled under section 6 of the Toxic Substances Control Act (TSCA). This approach may have advantages when compared to a RCRA listing. EPA is investigating the TSCA option because any used oil hazardous waste listing, even if limited to used oil being disposed of, could be associated with some of the same impacts as a recycled oil listing. In other words, the disposal vs. recycling distinction could be lost on some and used oil would simply be considered "hazardous" for all practical purposes. We are not sure whether this would really be the case, given the indirect linkage between a "disposal only" listing and recycling. Since, however, a TSCA rule would probably create even less of a stigma than a RCRA disposal listing, we think the option is worth investigating further. It should be noted that TSCA section 6 provides EPA with strong regulatory authorities. For example, under section 6(a)(6)(A), EPA may *prohibit* forms of disposal that pose an unreasonable risk.

IV. Strategy to Control Used Oil Recycling

EPA is considering what management standards are necessary for recycled oil. We continue to believe that improper recycling of used oil can pose substantial environmental hazards. This conclusion was supported by many commenters. EPA believes that the regulations for used oil fuel issued in final form on November 29, 1985 [50 FR 49164], while addressing some of the more serious problems, do not by themselves provide adequate controls to ensure proper used oil recycling. For example, these regulations do not address road oiling, storage, and facility management (i.e., security provisions, financial arrangements for closure, etc.), and do not address actual emissions from industrial burning of off-specification used oil fuel.

EPA has concluded additional studies are necessary before issuing recycled oil management standards. We have concluded that we will not issue as a final rule the complete set of management standards proposed on November 29, 1985 [50 FR 49212] because some aspects of the proposal may have been so stringent as to cause impacts similar to a recycled oil listing. In particular, commenters (mainly used oil processors and used oil burners)

maintained that EPA's proposal to apply full RCRA facility standards to burners would virtually eliminate used oil burning as a recycling outlet. Preliminary cost analyses conducted by EPA appear to confirm this claim. Because burning is the major end use for used oil (and because of the limitations on re-refining expansion cited above), EPA is very concerned about the possibility of such an outcome. This is particularly important given that many industrial facilities, such as new asphalt plants, often have in place air pollution control equipment that reduce toxic emissions from used oil burning. We are therefore re-evaluating our approach to regulating used oil burners to determine whether a reduced set of facility standards might be adequate, whether requirements might be phased-in over a period of time, and also to determine to what extent RCRA used oil emission standards can be coordinated with standards issued by the Agency under the Clean Air Act for fossil fuel burners. The latter aspect of our re-evaluation might result in similar regulations for "virgin" and used oils, and this might reduce industrial fuel users' hesitancy to purchase a "waste" or "used" oil fuel. Since the Agency will also, within the next several months, be proposing standards for underground petroleum storage tanks under RCRA Subtitle I, we will also be considering to what extent these standards can be applied to used oil tanks. Coordination or integration of the standards would facilitate administration of both programs by the Agency (and the States).

Another reason EPA is not issuing final management standards today is that we are reluctant to regulate recycling any further until the Agency's overall used oil strategy is more fully developed, i.e., we want to avoid piecemeal regulation so as not to create an incentive to dispose. We will, however, consider whether any of the November 29, 1985 proposal should be issued in final form before the comprehensive disposal controls are in place. These would be low cost provisions designed to facilitate enforcement of the regulations issued in final form on 11/29/85 (50 FR 49164). Comprehensive recycling management standards, however, will not be issued until the disposal controls (TSCA or RCRA) are also issued.

Finally, EPA is conducting evaluations of several residues, waste waters, and sludges associated with the recycling of used oil. EPA may list one or more of these waste streams as hazardous wastes even if used oil is not itself listed.

V. New Schedule

EPA has formulated two schedules. The first would involve the use of TSCA in lieu of a RCRA disposal listing, and the second would involve a RCRA listing for disposal.

TSCA and RCRA Approach

- Decision as to whether TSCA will be used—Early 1987.
- Proposed TSCA disposal controls—Late 1987.
- Proposed (RCRA) combustion controls—Late 1987.
- Final TSCA disposal controls, RCRA management standards and combustion controls—Mid 1989.

RCRA-Only Approach

- Decision as to whether TSCA will be used—Early 1987.
- Notice of any new RCRA listing data—Late 1987.
- Final used oil (disposal) listing and management standards—Mid 1988.
- Proposed combustion controls—Mid 1988.
- Final combustion controls—Mid 1989.

EPA needs the time outlined in the schedule above to carry out the studies discussed above, and then to undertake appropriate rulemaking activities. Some of the planned actions would require new proposals, hearings, analysis of public comments, etc. Even for those options that would not require a new proposal, EPA must still address the voluminous comments received on the original 11/29/85 proposal. EPA, therefore, cannot proceed any more quickly than we have outlined above.

VI. CERCLA Reportable Quantities Proposal

In conjunction with the proposed listing of used oil as a hazardous waste, EPA proposed a CERCLA reportable quantity (RQ) of 100 pounds. [50 FR 49267, November 29, 1985.] Today's decision to not list recycled oil as a hazardous waste renders part of the RQ proposal moot, i.e., recycled oil will not itself become a listed CERCLA hazardous substance. However, hazardous substances present in any used oil which are either not normally found in refined petroleum fractions or are present at levels exceeding those normally found in petroleum are subject to CERCLA. See 51 FR 8206; March 10, 1986. Used oil being disposed of, as discussed above, may yet be listed as a hazardous waste. Such used oil would then itself become a hazardous substance under CERCLA. If this is the decision EPA finally makes, we will at that time also make the final determination concerning the appropriate RQ for such used oil.

VII. Supporting Documents

Studies cited in the discussions above (as well as the public comments on the 11/29/85 and 3/10/86 proposals) are available for public inspection in the RCRA Docket, (Sub-basement), Docket #F–86–UODF–FFFFF, 401 M Street, SW., Washington, DC 20460. The most important documents are listed below. The docket is open to the public from 9:30 a.m. to 3:30 p.m., Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost. Additional copies cost $0.20 per page.

Information Sources

1. *Public Comment Analysis for the Listing of Used Oil and Management Standards for Recycled Oil*, Four Volumes, by Versar, Inc., dated June 30, 1986.
2. *Analysis of Possible Market Impacts Resulting from Stigmatizing Effects of Listing Recycled Oil*, by Temple, Barker, and Sloane, Inc., dated November 1986.
3. Letter from Honorable Charles W. Stenholm to Lee Thomas, dated June 18, 1986.
4. *Assessment of State Used Oil Management Practices and Regulations*, Two Volumes, by Versar, Inc. June 19, 1986.
5. Information bulletins for used oil generators and recyclers, one bulletin dated 6/86, and two 8/86.
6. Memo to docket on used oil burner notifications, dated November 5, 1986.

Lists of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: November 8, 1986.

Lee M. Thomas,

Administrator.

[FR Doc 86–26076 Filed 11–18–86 8:45 am]

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federal register

Wednesday
November 19, 1986

Part IV

Department of the Treasury

Office of Foreign Assets Control

31 CFR Part 545

South African Transactions Regulations; Comprehensive Anti-Apartheid Act Implementation and Product Guidelines; Final Rules

Department of State

South African Parastatal Organizations; Notice

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 545

South African Transactions Regulations

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the South African Transactions Regulations, 31 CFR Part 545 (the "Regulations"), to implement certain provisions of the Comprehensive Anti-Apartheid Act of 1986, Pub. L. 99-440, 100 Stat. 1086, as amended by H.J. Res. 756, Pub. L. 99-631, ("the Act"). This rule relates solely to certain provisions of the Act that were effective on or immediately after its passage on October 2, 1986. Those provisions are section 301, prohibiting Krugerrand and other South African gold coin imports (Regulations, § 545.201); section 303, prohibiting the importation of products grown, produced, manufactured, marketed, or otherwise exported by South African parastatal organizations (Regulations, § 545.208); section 305, prohibiting loans to the Government of South Africa (Regulations, § 545.202); section 319, prohibiting the importation of South African agricultural products and articles suitable for human consumption (Regulations, § 545.205); section 320, prohibiting South African iron ore, iron and steel imports (Regulations, § 545.206); and section 323(a)(1), prohibiting importation of South African sugars, sirups, and molasses (Regulations, § 545.207).

EFFECTIVE DATE: Sections 545.205 and 545.207, 12:01 a.m. Eastern Daylight Time, October 3, 1986; all other affected sections, 12:01 a.m. Eastern Daylight Time, October 2, 1986.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Muench, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, 1331 G Street NW., Washington, DC 20220 (telephone: 202/376-0408).

SUPPLEMENTARY INFORMATION: The purpose of the Act, as stated by the Congress, is to set forth a comprehensive framework guiding the efforts of the United States to help to end the apartheid system in South Africa and to assist in the establishment of a nonracial, democratic form of government in that country. In Executive Order 12571 of October 27, 1986, 51 FR 39505 (Oct. 29, 1986), the President delegated authority to the Secretary of the Treasury to implement the Act's prohibitions on imports of certain products (sections 301, 302, 303, 309, 319, 320, 323(a)(1), 510); loans to the South African Government and its controlled entities (section 305); new investments in South Africa (section 310); and the acceptance, receipt or holding of deposit accounts of the South African Government or its controlled entities by a United States depository institution (section 308). Existing regulations at 27 CFR Part 47 implement section 302 of the Act, while section 510 is being implemented by new Part 555, the Soviet Gold Coin Regulations, published on the same date as this rule.

The Act's restrictions on new investments in South Africa (including loans to the private sector) and South African Government bank accounts will become effective on November 16, 1986. Section 309 of the Act, banning importation of South African uranium oxide, uranium ore, coal, and textiles into the United States, will become effective on December 31, 1986. Regulations implementing these provisions will be issued at a later date.

Section 601 of the Act directs the President to continue in effect the measures imposed by Executive Order 12532 of September 9, 1985, 50 FR 36861 (Sept. 10, 1985), banning the importation of South African Krugerrands into the United States, and Executive Order 12535 of October 1, 1985, 50 FR 40325 (Oct. 3, 1985), prohibiting financial institutions in the United States from extending any loan or credit to the South African Government. The Act expands the Krugerrand import prohibition to bar importation of any gold coin minted in South Africa or offered for sale by the Government of South Africa (section 301). The Act also extends to all U.S. nationals, including their foreign branches, the existing prohibition on new loans to the Government of South Africa (section 305), and modifies the definition of the term "loan." This rule modifies the Regulations to conform with these provisions of the Act.

Pursuant to section 2 of Executive Order 12571, the Secretary of State is responsible for determining which entities are "parastatal organizations" for purposes of the Act. Determinations by the Department of State will be used as the exclusive guide for determining which South African entities are parastatal. The first notice concerning such organizations is being published today in conjunction with this final rule. Notices will be published in the **Federal Register** containing updated lists of parastatal organizations as required. Persons with specific questions concerning parastatal organizations may contact the Department of State, Office of Southern African Affairs, Washington, DC 20520 (telephone: 202/647-8433).

Guidelines are being published today in a separate notice related to this final rule delineating the products subject to the importation bans affecting agriculture, articles suitable for human consumption, iron ore, iron, and steel. The U.S. Customs Service will determine whether particular merchandise is subject to exclusion pursuant to these guidelines. It should be noted that agricultural products will continue to be subject to all applicable rules and regulations of the Fish and Wildlife Service of the Department of the Interior, the Department of Agriculture, and other interested agencies, and that the regulations contained in this final rule in no way affect the application of such other rules and procedures.

Section 3(6)(B) of the Act extends to Namibia the preexisting prohibitions of §§ 545.201 and 545.202 of the Regulations. This has been implemented by adding § 545.312 to the Regulations, defining South Africa to include any territory (including Namibia) under the administration, legal or illegal, of South Africa.

Section 603 of the Act provides civil and criminal penalties for violation of the Act, the Regulations and all related provisions. These penalties are implemented in § 545.701 of the Regulations.

Since these regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply. Because these regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with Federal regulations.

List of Subjects in 31 CFR Part 545

Agricultural products, Food, Gold coins, Imports, Iron, Krugerrands, Loans, Namibia, Parastatal organizations, South Africa, Steel, and Sugar.

For the reasons set forth in the preamble, 31 CFR Part 545 is amended as follows:

PART 545—SOUTH AFRICAN TRANSACTIONS REGULATIONS

1. The Authority citation for Part 545 is revised to read as follows:

Authority: 50 U.S.C. 1701 et seq.; E.O. 12532, 50 FR 36861, Sept. 10, 1985; E.O. 12535, 50 FR 40325, Oct. 3, 1985; Pub. L. 99-440, 100 Stat. 1086; Pub. L. 99-631; E.O. 12571, 51 FR 39505, Oct. 29, 1986.

2. Section 545.101 is revised to read as follows:

§ 545.101 Relation of this part to other laws and regulations.

(a) This part is independent of the other parts of this chapter. No license or authorization contained in or issued pursuant to the other parts of this chapter authorizes any transaction prohibited by this part. In addition, no license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

3. Section 545.201 is revised to read as follows:

§ 545.201 Prohibition on importation of South African gold coins.

No person, including a bank, may import into the United States any South African Krugerrand, or any other gold coin minted in South Africa or offered for sale by the Government of South Africa.

4. Section 545.202 is revised to read as follows:

§ 545.202 Prohibition on loans.

(a) No national of the United States or financial institution in the United States may make or approve any loan or other extension of credit, directly or indirectly, to the Government of South Africa or to any corporation, partnership or other organization which is owned or controlled by the Government of South Africa.

(b) The prohibition contained in paragraph (a) of this section shall not apply to:

(1) A loan or extension of credit for any education, housing, health, or humanitarian benefit which (i) is available to all persons on a nondiscriminatory basis; or (ii) is available in a geographic area accessible to all population groups without any legal or administrative restriction, provided that no such loan shall be made without first obtaining a specific license pursuant to § 545.503; or

(2) A loan or extension of credit by a national of the United States that is not a financial institution in the United States, for which an agreement was entered into before October 2, 1986, or a loan or extension of credit by a financial institution in the United States for which an agreement was entered into before September 9, 1985.

5. Section 545.203 is revised to read as follows:

§ 545.203 Effective dates.

(a) The effective date of the import prohibition in § 545.201 with respect to Krugerrands is 12:01 a.m. Eastern Daylight Time, October 11, 1985. The effective date of all other prohibitions in § 545.201 is 12:01 a.m. Eastern Daylight Time, October 2, 1986.

(b) The effective date of the prohibition in § 545.202 with respect to financial institutions in the United States is 12:01 a.m. Eastern Standard Time, November 11, 1985. The effective date with respect to nationals of the United States that are not financial institutions in the United States is 12:01 a.m. Eastern Daylight Time, October 2, 1986.

(c) The effective date of the prohibitions in §§ 545.205 and 545.207 is 12:01 a.m. Eastern Daylight Time, October 3, 1986.

(d) The effective date of the prohibitions in §§ 545.206 and 545.208 is 12:01 a.m. Eastern Daylight Time, October 2, 1986.

6. Section 545.204 is revised to read as follows:

§ 545.204 Evasions.

The regulations set forth in this part shall apply to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade Executive Order 12532, Executive Order 12535, the Act, or these regulations.

7. Section 545.205 is added to Subpart B to read as follows:

§ 545.205 Prohibition on importation of South African agricultural products and food.

No (a) agricultural commodity or product or any byproduct or derivative thereof that is a product of South Africa, or (b) article that is suitable for human consumption that is a product of South Africa, may be imported into the United States.

8. Section 545.206 is added to Subpart B to read as follows:

§ 545.206 Prohibition on importation of iron ore, iron and steel.

No iron or steel produced or iron ore extracted in South Africa may be imported into the United States, except that any such commodity may be imported pursuant to a contract entered into before August 15, 1986, if no shipment of such commodity is imported by a national of the United States under such contract after December 31, 1986.

9. Section 545.207 is added to Subpart B to read as follows:

§ 545.207 Prohibition on sugar imports.

No sugars, sirups, or molasses that are products of the Republic of South Africa may be imported into the United States.

10. Section 545.208 is added to Subpart B to read as follows:

§ 545.208 Prohibition on importation of products from parastatal organizations.

(a) No article which is grown, produced, manufactured, marketed, or otherwise exported by a parastatal organization of South Africa may be imported into the United States, except for:

(1) Those strategic minerals for which the President has certified to the Congress that the quantities essential for the economy or defense of the United States are unavailable from reliable and secure suppliers; and

(2) Except as otherwise provided in this part, any article to be imported pursuant to a contract entered into before August 15, 1986, provided that no shipments may be received by a national of the United States under such contract after April 1, 1987.

(b) Pursuant to § 545.413 of this part, articles grown, produced, manufactured, marketed, or otherwise exported by a parastatal organization of South Africa, the importation of which is otherwise banned pursuant to Subpart B of this part, are not eligible for importation pursuant to section 303(a)(1) of the Act or § 545.208(a)(2) of this part.

(c) Nothing in this section prohibits the importation into the United States of any publication, including any book, newspaper, magazine, film, phonograph record, tape recording, photograph, microfilm, microfiche, poster, or any other similar material.

11. Section 545.301 is revised to read as follows:

§ 545.301 Krugerrands and gold coins.

The terms "Krugerrands" and "gold coins" include Krugerrands and gold coins of all denominations and sizes, and Krugerrands and gold coins that have been modified, as by addition of a clasp or loop, into items that can be worn as jewelry.

12. Section 545.302 is revised to read as follows:

§ 545.302 United States.

The term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

13. Section 545.304 is revised to read as follows:

§ 545.304 Loan.

(a) The term "loan" means any transfer or extension of funds or credit on the basis of an obligation to repay, or any assumption or guarantee of the obligation of another to repay an extension of funds or credit, including, but not limited to, overdrafts; currency swaps; the purchase of debt or equity securities issued by the Government of South Africa or a South African entity on or after the effective date; the purchase of a loan made by another person; the sale of financial assets subject to an agreement to repurchase; a renewal or refinancing whereby new funds or credits are transferred or extended to the Government of South Africa or a South African entity; or the issuance of a standby letter of credit.

(b) The term "loan" does not include normal short-term trade financing, as by commercial letters of credit, bankers' acceptances eligible for discount by a Federal Reserve Bank pursuant to paragraph 7 of section 13 of the Federal Reserve Act (12 U.S.C. 372), or similar trade credits; sales on open account in cases where such sales are normal business practice; or the rescheduling of existing loans, if no new funds or credits are thereby transferred or extended to a South African entity or the Government of South Africa.

14. Section 545.306 is revised to read as follows:

§ 545.306 Government of South Africa; South African Government.

The term "Government of South Africa" and "South African Government" include the government of the Republic of South Africa; the South African Reserve Bank; the government of any political subdivision of South Africa; the government of any territory (including Namibia) under the administration, legal or illegal, of South Africa; the governments of the "bantustans" or "homelands," to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda; and any entity controlled by the foregoing, as defined in § 545.307.

15. Section 545.310 is revised to read as follows:

§ 545.310 Affiliate.

The term "affiliate" includes, but is not limited to, an office, branch, or subsidiary.

16. Section 545.311 is added to Subpart C to read as follows:

§ 545.311 Prohibited borrower.

The term "prohibited borrower" means a person, including the Government of South Africa, to whom the making of a loan or other extension of credit is prohibited by the terms of § 545.202(a).

17. Section 545.312 is added to Subpart C to read as follows:

§ 545.312 South Africa.

The term "South Africa" includes the Republic of South Africa; any territory (including Namibia) under the administration, legal or illegal, of South Africa; and the "bantustans" or "homelands," to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda.

18. Section 545.313 is added to Subpart C to read as follows:

§ 545.313 National of the United States; U.S. national.

The terms "national of the United States" and "U.S. national" mean:

(a) A natural person who is a citizen of the United States, or who owes permanent allegiance to the United States, or is an alien lawfully admitted for permanent residence in the United States, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); or

(b) A corporation, partnership, or other business association which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, including foreign branches and offices of such entities.

(c) For purposes of §§ 545.206 and 545.208 of this part, the terms "national of the United States" and "U.S. national" also include any person located in the United States.

19. Section 545.314 is added to Subpart C to read as follows:

§ 545.314 South African entity.

The term "South African entity" means:

(a) A corporation, partnership, or other business association or entity organized in South Africa; or

(b) A branch, office, agency, or sole proprietorship in South Africa of a person that resides or is organized outside South Africa.

20. Section 545.315 is added to Subpart C to read as follows:

§ 545.315 Parastatal organization.

(a) For purposes of § 545.208, the term "parastatal organization" means a corporation, partnership, or entity owned, controlled or subsidized by the Government of South Africa, but does not mean a corporation, partnership, or entity which previously received start-up assistance from the South African Industrial Development Corporation but which is now privately owned.

(b) Pursuant to section 2 of Executive Order 12571, 51 FR 39505 (Oct. 29, 1986), the Secretary of State is responsible for determining which entities are parastatal organizations for purposes of this part. The Secretary of State will publish periodic notices in the **Federal Register** containing current lists of parastatal organizations. Determinations by the Department of State will be used as the exclusive guide for determining which South African entities are parastatal. Persons with specific questions concerning parastatal organizations may contact the Department of State, Office of Southern African Affairs, Washington, DC 20520.

21. Section 545.316 is added to Subpart C to read as follows:

§ 545.316 The Act.

The term "the Act" means the Comprehensive Anti-Apartheid Act of 1986, Pub. L. 99-440, 100 Stat. 1086, as amended by H.J. Res. 756, Pub. L. 99-631.

22. Section 545.402 is revised to read as follows:

§ 545.402 Effect of amendment of sections of this chapter or of other orders, etc.

Any modification of this chapter or of any regulation, ruling, order, instruction, direction or license issued by or under the direction of the Secretary of the Treasury shall not, unless otherwise specifically provided, be deemed to affect liability for any act performed or omitted, or any civil or criminal proceeding commenced, prior to such modification, and all penalties, forfeitures, and liabilities under any such regulation, ruling, order, instruction, direction or license shall continue and may be enforced as if such modification had not been made.

23. Section 545.403 is revised to read as follows:

§ 545.403 Krugerrand and gold coin jewelry.

Section 545.201 prohibits the importation into the United States of Krugerrands or any other South African gold coins that have been modified, as by the addition of a clasp or loop, into items that can be worn as jewelry. For example, importation of a necklace consisting of a gold coin mounted on a chain would be prohibited. Section 545.201 does not prohibit the reimportation into the United States of Krugerrand jewelry which was originally imported into the United States prior to October 11, 1985, or of other gold coin jewelry originally imported into the United States prior to October 2, 1986, provided that (a) the

importer can demonstrate to the satisfaction of the Secretary of the Treasury or his delegate that the initial importation was made before the relevant effective date, and (b) the jewelry to be reimported is in small quantities and for personal use only.

24. Section 545.404 is revised to read as follows:

§ 545.404 Rescheduling existing loans.

Provided that no new funds or credits are thereby transferred or extended to a prohibited borrower, § 545.202 does not prohibit a national of the United States or a financial institution in the United States from rescheduling loans or otherwise extending the maturities of existing loans, or from charging fees, or interest at commercially reasonable rates, in connection therewith.

§ 545.405 [Removed]

25. Section 545.405 is removed.

26. Section 545.406 is revised to read as follows:

§ 545.406 Loans through intermediaries.

Section 545.202 prohibits a national of the United States or a financial institution in the United States from making a loan to any person in the United States or a foreign country, where the U.S. national or financial institution has reason to believe that the loan is being obtained for or on behalf of a prohibited borrower, and that the relevant funds or credit will be made available to a prohibited borrower.

27. Section 545.407 is revised to read as follows:

§ 545.407 Substitution of the South African Government as obligor.

Section 545.202 does not prohibit a national of the United States or a financial institution in the United States from complying with applicable laws, regulations or other directives of the South African Government requiring or permitting the South African Government to become the primary or secondary obligor with respect to an outstanding loan, provided that no new funds or credits are thereby transferred or extended to a prohibited borrower.

28. Section 545.408 is revised to read as follows:

§ 545.408 Approval of loans by foreign affiliates.

Section 545.202 prohibits nationals of the United States or financial institutions in the United States from approving loans by their foreign affiliates to prohibited borrowers.

29. Section 545.409 is revised to read as follows:

§ 545.409 Loan participations.

Section 545.202 prohibits a national of the United States or a financial institution in the United States from purchasing, or otherwise acquiring a participation in, all or part of any loan made by any other person or persons to a prohibited borrower, regardless of the date of the original loan. However, the prohibition of § 545.202 does not apply if, in the case of a financial institution, it is obligated to make the purchase under an agreement entered into before September 9, 1985, or, in the case of a national of the United States that is not a financial institution in the United States, it is obligated to make the purchase under an agreement entered into before October 2, 1986, or, in either case, such acquisition is incidental to the purchase or acquisition of an entity or all or substantially all of the assets of an entity that has previously made or acquired participations in such loans.

30. Section 545.410 is revised to read as follows:

§ 545.410 South African law.

If, under applicable laws of South Africa, a national of the United States or a financial institution in the United States cannot obtain enough information from a person in South Africa to enable it reasonably to conclude that a loan is not being obtained for or on behalf of a prohibited borrower, § 545.202 prohibits the loan.

31. Section 545.411 is added to Subpart D to read as follows:

§ 545.411 Third-country products otherwise exported from South Africa.

Products of third countries, *e.g.*, Lesotho, Botswana, or Swaziland, which are transshipped through South Africa for exportation to the United States will not be deemed "otherwise exported by a parastatal organization of South Africa" for purposes of § 545.208 merely because such goods are transported, graded, packaged, repackaged, containerized, or otherwise serviced in transit by a parastatal organization of South Africa. The foregoing interpretation shall not apply if the Government of South Africa or a parastatal organization has any financial interest in the export sale of such goods beyond remuneration for the fair value of services performed in South Africa in connection with such transshipment and exportation. This section shall not apply to the "bantustans" or "homelands" to which South Africa blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda, which, pursuant to § 545.312, are deemed part of South Africa.

32. Section 545.412 is added to Subpart D to read as follows:

§ 545.412 Release from bonded warehouse or foreign trade zone.

Goods subject to import restrictions pursuant to Subpart B of this part may be released from a bonded warehouse or a foreign trade zone if such goods were imported into the bonded warehouse or foreign trade zone prior to the effective date.

33. Section 545.413 is added to Subpart D to read as follows:

§ 545.413 Import prohibitions applied cumulatively.

An import transaction prohibited by any section of Subpart B of this part is prohibited, notwithstanding the applicability to the same transaction of any other, less restrictive section of that subpart.

Examples

(a) The importation under a pre-August 15, 1986, contract of steel marketed by a parastatal organization is prohibited after December 31, 1986, pursuant to the iron and steel ban in § 545.206. The longer parastatal importation period in § 545.208(a)(2) is not available to permit importations after December 31, 1986.

(b) Similarly, the ban in § 545.205 on agricultural imports is applicable to, and prohibits, all agricultural import transactions after October 2, 1986, regardless of the involvement of a parastatal organization.

34. Section 545.414 is added to Subpart D to read as follows:

§ 545.414 U.S. Customs Service rules of origin.

Determinations of country of origin for purposes of this part will be made in accordance with normal Customs rules of origin.

35. Section 545.501 is revised to read as follows:

§ 545.501 Effect of subsequent license or authorization.

No license or other authorization contained in this chapter or otherwise issued by or under the authority of the Secretary of the Treasury shall be deemed to authorize or validate any transaction effected prior to the issuance thereof, unless such license or other authorization specifically so provides.

36. Section 545.503 is revised to read as follows:

§ 545.503 Loans to benefit persons disadvantaged by the apartheid system.

(a) Specific licenses may be issued to financial institutions in the United States that are not nationals of the United States authorizing them to make

loans to prohibited borrowers where it is determined that the loans will improve the welfare or expand the economic opportunities of persons in South Africa disadvantaged by the apartheid system, provided that no such loan will be authorized to any apartheid enforcing entity.

(b) Specific licenses may be issued to nationals of the United States or financial institutions in the United States where it is determined that the loans will finance any education, housing, or humanitarian benefit which (1) is available to all persons on a nondiscriminatory basis, or (2) is available in a geographic area accessible to all population groups without any legal or administrative restriction.

§ 545.504 [Removed]

37. Section 545.504 is removed.

38. Section 545.601 is revised to read as follows:

§ 545.601 Required records.

Every person engaging in any act or transaction subject to this part shall keep a full, complete, and accurate record relative to any such act or transaction either before, during, or after the completion thereof, including any transaction effected pursuant to license or otherwise, and such records shall be available for examination for two years after the date of such transaction.

39. Section 545.602 is revised to read as follows:

§ 545.602 Reports to be furnished on demand.

Every person is required to furnish under oath, in the form of reports or otherwise, at any time as may be required, complete information relative to any act or transaction subject to this part, regardless of whether such transaction is effected pursuant to license or otherwise. Such reports may be required to include the production of any books of account, contracts, letters, and other papers connected with any transaction in the custody or control of the persons required to make such reports. Reports with respect to transactions may be required before, during, or after such transactions are completed. The Secretary of the Treasury may, through any person or agency, conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation.

40. Section 545.701 is revised to read as follows:

§ 545.701 Penalties.

(a) Any person that violates any regulation, license, or order issued under this part shall be subject to a civil penalty of $50,000.

(b) Any person, other than an individual, that willfully violates any regulation, license, or order issued under this part shall be fined not more than $1,000,000.

(c) Any individual who willfully violates any regulation, license, or order issued under this part shall be fined not more than $50,000, or imprisoned not more than ten years, or both; and

(d) Whenever a person commits a violation as to which a penalty under paragraph (a), (b) or (c) of this section applies, the following shall also apply: (1) Any officer, director, or employee of such person, or any natural person in control of such person, who knowingly and willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation; and (2) any agent of such person who knowingly and willfully carried out such act or practice, shall be fined not more than $10,000, or imprisoned not more than five years, or both. However, this paragraph (d) shall not apply in the case of a violation by an individual of section 301(a) of the Act, § 545.201 of this part, or of any other regulation issued to carry out section 301(a) of the Act.

(e) A fine imposed under paragraph (b) of this section on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(f) Any individual who violates § 545.201 of this part relating to the prohibition on the importation of Krugerrands or other South African gold coins shall, instead of the penalties set forth in paragraph (b) of this section, be fined not more than five times the value of the Krugerrands or gold coins involved.

(The Act, § 603 (b) and (c).)

(g) Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000, or such greater amount as set forth in 18 U.S.C. 3623, or imprisoned not more than five years, or both.

(18 U.S.C. 1001, 3623.)

(h) Violations of this part may also be subject to relevant provisions of the Customs laws and other applicable laws.

41. In § 545.801, the text of paragraph (a) is added to read as follows:

§ 545.801 Licensing.

(a) *General licenses.* General licenses may be issued authorizing under appropriate terms and conditions certain types of transactions which are subject to the prohibitions contained in Subpart B of this part. Any and all such licenses will be set forth in Subpart E of this part. It is the policy of the Office of Foreign Assets Control not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable. Persons availing themselves of certain general licenses may be required to file reports and statements in accordance with the instructions specified in those licenses.

* * * * *

42. Section 545.805 is revised to read as follows:

§ 545.805 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take with respect to the subject matter of this part may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury delegated authority so to act.

43. Section 545.807 is added to subpart H to read as follows:

§ 545.807 Certification concerning parastatal organizations.

(a) If the importer asserts that the imported articles were not grown, produced, manufactured, marketed, or otherwise exported by a parastatal organization, he shall file the following declaration with the U.S. Customs Service upon making an entry of goods from South Africa:

> These goods were obtained from ——, which is not a parastatal entity of South Africa, and these goods were not grown, produced, manufactured, marketed, or otherwise exported by a parastatal organization.

(b) If parastatal status is declared upon making an entry of goods from South Africa, or from a third country in the case of goods marketed or otherwise exported by a parastatal organization, the following declaration shall be filed:

These goods were grown, produced, manufactured, marketed or otherwise exported by ———, which is a parastatal organization of South Africa.

When entering parastatal goods as described above, a copy of the import contract or other evidence of the date of the import contract pertaining to the goods must be submitted evidencing that the contract was entered into prior to August 15, 1986. Importation shall be permitted only for parastatal goods not otherwise prohibited pursuant to Subpart B of this part, and only if the goods are imported prior to April 2, 1987.

Dated: November 12, 1986.

Cheryl A. Opacinch,

Acting Director, Office of Foreign Assets Control.

Approved: November 14, 1986.

Francis A. Keating II,

Assistant Secretary (Enforcement).

[FR Doc. 86-26117 Filed 11-17-86; 12:12 pm]

BILLING CODE 4810-25-M

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31 CFR Part 545

South African Transactions Regulations—Product Guidelines

AGENCY: Department of the Treasury.

ACTION: Notice of interpretation.

SUMMARY: Notice is hereby given that the guidelines set forth below will be used by the U.S. Customs Service of the Department of the Treasury in determining which products are subject to the bans imposed by the Comprehensive Anti-Apartheid Act of 1986, Pub. L. 99-440, 100 Stat. 1086 ("the Act"), as amended by H.J. Res. 756,Pub. L. 99-631, on importation from South Africa of (a) agriculture and articles suitable for human consumption (section 319 of the Act) and (b) iron ore, iron, and steel (section 320 of the Act). Sections 319 and 320 of the Act are implemented in the South African Transactions Regulations, 31 CFR Part 545, at §§ 545.205 and 545.206, respectively, as set forth in a final rule regarding South Africa that is being published in conjunction with this notice.

EFFECTIVE DATES: 12:01 a.m. Eastern Daylight Time, October 3, 1986, as to § 545.205; 12:01 a.m. Eastern Daylight Time, October 2, 1986, as to § 545.206.

ADDRESSES: Copies of this notice and the South African Transactions Regulations are available at the Office of Foreign Assets Control, U.S. Department of the Treasury, 1331 G Street, NW., Washington, DC 20220. Copies of the notice are available at the U.S. Customs Service, Office of Commercial Operations, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Harrison Feese, U.S. Customs Service, Office of Commercial Operations, 1301 Constitution Avenue, NW., Washington, DC 20229 (telephone: 202/566-5307).

SUPPLEMENTARY INFORMATION: Section 319 of the Act (Regulations, § 545.205) prohibits the importation of South African agricultural products and articles suitable for human consumption. Section 320 of the Act (Regulations, § 545.206) prohibits the importation of South African iron ore, iron, and steel. Regulations implementing these and other sanctions against South Africa, as delegated to the Secretary of the Treasury pursuant to Executive Order 12571 of October 27, 1986, 51 FR 39505 (Oct. 29, 1986), are published on this same date in a final rule implementing amendments to the South African Transactions Regulations. This notice is published in conjunction with that final rule to inform interested persons of the guidelines to be employed by the U.S. Customs Service in determining which products are agricultural commodities, articles suitable for human consumption, iron ore, iron, or steel within the meaning of the Act. Persons with questions concerning such product classifications should contact the U.S. Customs Service office indicated above.

(Sections 319 and 320 of the Comprehensive Anti-Apartheid Act of 1986, Pub. L. 99-440, 100 Stat. 1086)

Product Guidelines

I. Agricultural Commodities and Articles Fit for Human Consumption

The categories (1) agricultural commodities, products, byproducts, or derivatives thereof, and (2) articles that are suitable for human consumption include all items classifiable in Schedule 1 of the Tariff Schedules of the United States ("TSUS"), except those listed in the following paragraph, and all other articles fit for human consumption by ingestion, such as, but not limited to, flavoring extracts, gelatin, polysaccharides, and drugs provided for in Schedule 4 and articles of gelatin provided for in Schedule 7.

The foregoing does not include any TSUS number in Schedule 1 covering products of countries other than South Africa, nor does it include items classifiable under TSUS numbers 100.03; 100.04; 184.54; 184.55; 186.50; 190.30; 190.35; 190.45; 190.47; 190.50; 190.60; 190.65; 190.68 (mounted or stuffed animals and parts of animals, which are the products of taxidermy); 190.80; and 190.85 through 190.93. In addition, the foregoing does not include skins of animals, or pets, provided they are imported for personal use only.

II. Iron Ore, Iron, and Steel

This category includes the following:

1. Iron ore—TSUS 601.24.
2. Iron or steel waste and scrap—TSUS 606.08 through 606.11.
3. Pig iron, cast iron and spiegeleisen—TSUS 606.13 through 606.19.
4. Sponge iron, iron and steel powders, grit and shot—TSUS 606.55 through 606.64.
5. Ingots, blooms, billets, slabs and sheet bars—TSUS 606.67 through 606.69.
6. Iron or steel forgings—TSUS 606.71 through 606.73.
7. Bars of iron and steel—TSUS 606.75 through 606.99.
8. Hollow drill steel—TSUS 607.05 through 607.09.
9. Wire rods—TSUS 607.14 through 607.59.
10. Plates, sheets and strip—TSUS 607.62 through 609.17.
11. Wire—TSUS 609.20 through 609.76.
12. Angles, shapes, sections, and sheet piling—TSUS 609.80 through 609.98.
13. Rails, joint bars and tie plates—TSUS 610.20 through 610.26.
14. Pipes and tubes, including blanks and fittings—TSUS 610.30 through 610.92.
15. Wire products—TSUS 642.02, 642.08, 642.11 through 642.16, and 642.20.

Dated: November 12, 1986.

Cheryl A. Opacinch,

Acting Director, Office of Foreign Assets Control.

Approved: November 14, 1986.

Francis A. Keating II,

Assistant Secretary (Enforcement).

[FR Doc. 86-26116 Filed 11-17-86; 12:12 pm]

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DEPARTMENT OF STATE

[Public Notice 983]

South African Parastatal Organizations

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of which corporations, partnerships, and entities are deemed to be "parastatal organizations" for purposes of the Comprehensive Anti-Apartheid Act of October 2, 1986 (Pub. L. 99–440).

EFFECTIVE DATE: 12:01 a.m., e.d.t., October 2, 1986.

FOR FURTHER INFORMATION CONTACT: Eric Benjaminson, Office of Southern African Affairs (202) 647–8433, or Lynda Clarizio, Office of the Legal Adviser (202) 647–4110.

SUPPLEMENTARY INFORMATION: Section 303(a) of the Comprehensive Anti-Apartheid Act of 1986 (Pub. L. 99–440), as amended, provides that no article which is grown, produced, manufactured by, marketed, or otherwise exported by a parastatal organization of South Africa may be imported into the United States, with certain limited exceptions. Section 314 of the Act prohibits U.S. Government procurement from parastatal organizations, except for items necessary for diplomatic and consular purposes.

Section 303(b) of the Act states that the term "parastatal organization" means a corporation, partnership, or entity owned, controlled, or subsidized by the Government of South Africa, but does not mean a corporation, partnership, or entity which previously received start-up assistance from the South African Industrial Development Corporation but which is now privately owned. Regulations have been promulgated by the Department of the Treasury to implement Section 303 (contained in the South African Transactions Regulations, 31 CFR, Part 545 (published on this date)).

Executive Order No. 12571 of October 27, 1986 provides that the Secretary of State is responsible for determining which corporations, partnerships, or entities are parastatal organizations within the meaning of the Act. Pursuant to Section 2 of the Executive Order, the Department of State has identified the organizations listed below as South African parastatal organizations.

Importers should be aware that the list of parastatal organizations is not all-inclusive. The list is based on information currently available to the U.S. Government. The Department of State intends to revise the list periodically. Before making a commitment to import, importers may wish to seek guidance from the Office of Southern African Affairs (AF/S), Department of State, Washington, DC 20520 (202–647–8433) to ascertain whether a corporation, partnership, or entity has been identified as a parastatal organization.

The Department of State has interpreted Section 303(b) to mean that a corporation, partnership, or entity is owned by the Government of South Africa if the South African Government holds more than fifty percent of the outstanding voting securities of the corporation, partnership, or entity concerned. A corporation, partnership, or entity is deemed to be controlled by the South African Government if the South African Government controls in fact the corporation, partnership, or entity concerned. This would include situations where the South African Government has the authority to manage, direct, or administer the affairs of a corporation, partnership, or entity.

In determining the existence of control, the Department of State has employed the same standards as those specified in the Regulations on South Africa and Fair Labor Standards, 22 CFR 60.2 (1985). These standards are also utilized by other departments of the U.S. Government. For example, control is presumed: where the South African Government owns more than twenty-five percent of the outstanding voting securities of a firm, if no other person owns an equal or larger percentage; where the majority of a firm's board of directors are South African Government officials; where a firm is operated by the South African Government pursuant to the provisions of an exclusive management contract; or where the South African Government has the authority to appoint the majority of the members of a firm's board of directors or a firm's chief operation officer. These factors, however, are not exhaustive. Other factors may be relevant in considering whether the South African Government exercises control over a firm.

A corporation, partnership, or entity is deemed to be subsidized by the South African Government if the corporation, partnership, or entity concerned is at the present time receiving any financial assistance on preferential terms from the South African Government, other than that generally available to the public. A corporation, partnership, or entity that is receiving a de minimis amount of assistance from the South African Government is presumed not to be "subsidized" by the South African Government for purposes of the Act. In interpreting the term subsidy in this manner, the Department of State has taken into account the use of the term in other U.S. laws and regulations, consistent with the purposes of section 303(b) of the Act.

Notwithstanding the above, any person who believes that, due to unique or special circumstances, a corporation, partnership, or entity should be included or excluded from the list of parastatal organizations may request that the Department review the particular case. All requests must be submitted in writing to the Office of Southern African Affairs. The Department of State may invoke the authorities set forth in section 603(a) of the Act in conducting such a review. Any submission should contain detailed information as to the stock ownership and composition of the board of directors of the particular corporation, partnership, or entity as well as the amount of any industry-specific assistance received by such corporation, partnership, or entity from the Govenment of South Africa. The Department of State will attempt to provide a response within thirty days. Any person who willfully makes a false or misleading statement in such a submission will be subject to the civil and criminal penalties set forth in section 603 (b) and (c) of the Act and 18 U.S.C. 1001.

This notice involves a foreign affairs function of the United States. It is excluded from the procedures of 5 U.S.C. 553 and 554 and Executive Order 12291. It implements a statutory requirement that entered into force on October 2, 1986, and Section 2 of Executive Order 12571.

In accordance with these authorities, the following have been identified as South African parastatal organizations:

African Body and Coach (Pty) Ltd. (Putco subsidiary)
Alein Karoo Landboukooperasie, Ltd. (ostrich products)
Altana (Pty) Ltd.
Aluminum Investment Co. (Pty) Ltd.
Alusaf (Pty) Ltd.
Alustang (Pty) Ltd.
Alzira Financial (Pty) Ltd.
Andromeda Electronic Systems (Pty) Ltd.
Armaments Corp. of South Africa Ltd. (Armscor)
Atlantis Aluminum (Pty) Ltd.
Atlantis Diesel Engines (Pty) Ltd.
Atlas Aircraft Ltd. (Armscor Subsidiary)
Atomic Energy Corp. of South Africa
Avon Wire (Pty) Ltd. (Union Steel subsidiary)
Bophuthatswana National Development Corp. Ltd.
Cape Town Iron and Steel Works (Pty) Ltd. (ISCOR subsidiary)

Central Energy Fund (Pty) Ltd. (and subsidiaries)
Ciskei People's Development Bank
Coastal Coal (Pty) Ltd. (ISCOR subsidiary)
Commission for Fresh Produce Markets
Community Development Fund
Computer Technology (Pty) Ltd. (Comtec)
Cooperative Wine Growers (KWV)
Corp. for Public Deposits
Council for Scientific and Industrial Research and its subsidiary institutes
Crown Body and Coach (Pty) Ltd. (Putco subsidiary)
Dalestone (Pty) Ltd. (ISCOR subsidiary)
Department of Posts and Telecommunications
Development Bank of Southern Africa (DBSA)
Donkerhoek Quartzite (Pty) Ltd. (ISCOR subsidiary)
Dubigeon Plastics SA (Pty) Ltd. (Putco subsidiary)
Dunswart Iron and Steel Works Ltd. (ISCOR subsidiary)
Duntex Property (Pty) Ltd.
The Durban Navigation Colleries (Pty) Ltd. (ISCOR subsidiary)
Electricity Supply Commission (Escom)
Eloptro (Pty) Ltd. (Armscor subsidiary)
Ernani Property (Pty) Ltd. (Armscor subsidiary)
Export Finance Development Co. (Pty) Ltd.
First National Development Corp. of Southwest Africa Ltd.
Fisheries Development Corp. of SA
Foskem (Pty) Ltd.
Grootageluk Coal Mine Construction Co. (Pty) Ltd. (ISCOR subsidiary)
Heckett SA (Pty) Ltd. (ISCOR subsidiary)
Hall and Pickles (Coastal) (Pty) Ltd. (Union Steel subsidiary)
Holbane Collery (ISCOR subsidiary)
Hooggenoeg Marketing (Pty) Ltd. (High Enough)
I Stores (Pty) Ltd. (ISCOR subsidiary)
Imcor Tim (Pty) Ltd. (Namibia) (ISCOR subsidiary)
Imcor Zinc (Pty) Ltd. (Namibia) (ISCOR subsidiary)
Industrial Development Corp. of South Africa Ltd. (IDC)
Industrial Minerals Development Co. (Pty) Ltd.
Infoplan (Armscor subsidiary)
International Karakul Secretariat
Iscor Berlin (Pty) Ltd. (ISCOR subsidiary)
Iscor Utility Stores (Pty) Ltd. (ISCOR subsidiary)
Kangwane Economic Development Corp. Ltd.
Kentron (Pty) Ltd. (Armscor subsidiary)
Kindoc Group
Konbel (Pty) Ltd.
Konchem (Pty) Ltd. (Armscor subsidiary)
Konoil (Pty) Ltd.
Kwandebele Development Corp. Ltd.
Kwazulu Finance Investment Corp. Ltd.
Land and Agricultural Bank of South Africa
Land and Agricultural Bank of Southwest Africa
Lebowa Development Corp. Ltd.
Light Metals Investment Co. (Pty) Ltd.
Lyttelton Engineering Works Ltd. (Armscor subsidiary)
Marmain (Pty) Ltd.
Mavaco (Pty) Ltd.
Mercedes Datakor (Pty) Ltd.
Minsa (Pty) Ltd. (ISCOR subsidiary)
Motor Vehicle Assurance Fund
Musgrave (Pty) Ltd. (Armscor subsidiary)
Nabucco Investments (Pty) Ltd.
Naschem (Armscor subsidiary)
National Building and Investment Corp. (Southwest Africa)
National Materials Service Corp. (Pty) (Union Steel subsidiary)
National Selections (IDC subsidiary)
Navik (Pty) Ltd.
Ootra Inmakers (Pty) Ltd. (Eastern Packers)
Palafos (Pty) Ltd.
Phosphate Development Corp. Ltd. (Foskor)
Pietersburg Iron Co. (Pty) Ltd. (ISCOR subsidiary)
Post Office Savings Bank
Pretoria Metal Pressings (Armscor subsidiary)
Public Investment Commissioners
Putco Ltd.
Qwaqwa Development Corp. Ltd.
Rand Water Board
Rehoboth Finance and Development Corp. Ltd.
Reinsurance Fund for Export Credit and Foreign Investment
Rosamond Properties (Pty) Ltd.
Rustenberg Industrial Finance (Pty) Ltd.
Saldok (Pty) Ltd.
Sapekoe (Pty) Ltd. (and subsidiaries)
Sasol Ltd. (and subsidiaries)
Sasol Three (Pty) Ltd.
Satchem (Pty) Ltd.
Shangaan/Tsonga Development Corp. Ltd.
Siemens Ltd.
Small Business Development Corp.
Somchem (Pty) Ltd. (Armscor subsidiary)
South Africa Abattoir Corp.
South Africa Abattoir Commission
South Africa Banana Boad
South Africa Banknote Co.
South Africa Broadcasting Corp.
South Africa Canning Fruit Board
South Africa Chicory Board
South Africa Citrus Board
South Africa Cotton Board
South Africa Dairy Board
South Africa Deciduous Fruit Board
South Africa Development Trust Co. Ltd.
South Africa Dried Fruit Board
South Africa Dry Bean Board
South Africa Egg Board
South Africa Gas Distribution Corp. Ltd.
South Africa Inventions Development Corp.
South Africa Iron and Steel Corp. (and subsidiaries) (ISCOR)
South Africa Karakul Board
South Africa Lucerne Seed Board
South Africa Maize Board
South Africa Meat Board
South Africa Mint
South Africa Mohair Board
South Africa Oilseed Board
South Africa Potato Board
South Africa Reserve Bank
South Africa Rooibos Board
South Africa Sugar Association
South Africa Tobacco Board
South Africa Transport Services (including South Africa Airways)
South Africa Wheat Board
South Africa Wool Board
South Atlantic Cable Co.
Southern Oil Exploration Corp. (Pty) Ltd. (Soekor)
Southern Oil Exploration Corp (Southwest Africa) (Pty) Ltd.
Southwest Africa Broadcasting Corp.
Southwest Africa Karakul Board
Southwest Africa Water and Electricity Corp. (Pty) Ltd.
Steel Sales Company of Africa (ISCOR subsidiary)
Suprachem (Pty) Ltd. (ISCOR subsidiary)
Swartklip Products (Pty) Ltd. (Armscor subsidiary)
Tecnetics (Pty) Ltd.
Thames Wire and Cable (Pty) Ltd.
Transkei Development Corp. Ltd.
Transvaal Copper Rod Co. Ltd. (Union Steel subsidiary)
Tshikondeni Mining Co. (Pty) Ltd. (ISCOR subsidiary)
Tusitala (Pty) Ltd.
Union Steel Corp.
Usco Aluminum Corp. (Pty) Ltd. (Union Steel subsidiary)
Usco Aluminum Systems (Pty) Ltd. (Union Steel subsidiary)

Usco Huiseienaars (Pty) Ltd. (Union Steel subsidiary)
Usco Kabelmaatskappy (Pty) Ltd. (Union Steel subsidiary)
Vantin (Pty) Ltd. (ISCOR subsidiary)
Veldmaster (Pty) Ltd. (Union Steel subsidiary)
Veldmaster Incorporated (U.S.) (Union Steel subsidiary)
Venda Development Corp. Ltd.
Virema (Pty) Ltd.
Voms (Pty) Ltd. (Putco subsidiary)
Voms Parts (Pty) Ltd. (Putco subsidiary)
Vryheid (Natal) Railway Coal and Iron Co. (ISCOR subsidiary)
Yskor Landgoed (Pty) Ltd. (ISCOR subisdiary)
Yskor Newcastle Grondesit Ltd. (ISCOR subsidiary)

Dated: November 10, 1986.

Chester A. Crocker,

Assistant Secretary for African Affairs.

[FR Doc. 86-26114 Filed 11-17-86; 12:13 pm]

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federal register

Wednesday
November 19, 1986

Part V

Department of the Treasury

Office of Foreign Assets Control

31 CFR Part 555
Soviet Gold Coin Regulations; Final Rule

DEPARTMENT OF THE TREASURY

31 CFR Part 555

Soviet Gold Coin Regulations

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule implements section 510 of the Comprehensive Anti-Apartheid Act of 1986, Pub. L. 99–440, 100 Stat. 1086, as amended by H.J. Res. 756, Pub. L. 99–631, banning importation into the United States of any gold coin minted in the Union of Soviet Socialist Republics or offered for sale by the Government of the Union of Soviet Socialist Republics.

EFFECTIVE DATE: 12:01 a.m. Eastern Daylight Time, October 2, 1986.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Muench, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, 1331 G Street, NW., Washington, DC 20220 (tel: 202–376–0408).

SUPPLEMENTARY INFORMATION: This rule sets forth the policies concerning the ban on importation into the United States of Soviet gold coins. The importation of such coins was banned as part of the Comprehensive Anti-Apartheid Act of 1986, which establishes policies and sanctions against South Africa (including a ban on importing South African gold coins) aimed at bringing an end to apartheid.

Since these regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply. Because these regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with Federal regulations. The Office of Management and Budget control number for the information collection request contained in this document is 1505–0095.

List of Subjects in 31 CFR Part 555

Gold coins, Imports, Reporting and recordkeeping requirements, Soviet Union.

For the reasons set forth in the preamble, 31 CFR Part 555 is added as follows:

PART 555—SOVIET GOLD COIN REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.

555.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

555.201 Prohibition on the importation of Soviet gold coins.
555.202 Effective date.
555.203 Evasions.

Subpart C—General Definitions

555.301 Gold coins.
555.302 United States.
555.303 Importation.
555.304 Person.
555.305 Entity.

Subpart D—Interpretations

555.401 Reference to amended sections.
555.402 Effect of amendment of sections of this chapter or of other orders, etc.
555.403 Gold coin jewelry.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

555.501 Effect of subsequent license or authorization.
555.502 Exclusion from licenses and authorizations.

Subpart F—Reports

555.601 Required records.
555.602 Reports to be furnished on demand.

Subpart G—Penalties

555.701 Penalties.

Subpart H—Procedures

555.801 Licensing.
555.802 Decisions.
555.803 Amendment, modification, or revocation.
555.804 Rulemaking.
555.805 Delegation by the Secretary of the Treasury.
555.806 Rules governing availability of information.

Authority: Pub. L. 99–440, 100 Stat. 1086; Pub. L. 99–631; E.O. 12571, 51 FR 39505, Oct. 29, 1986.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 555.101 Relation of this part to other laws and regulations.

(a) This part is independent of the other parts of this chapter. No license or authorization contained in or issued pursuant to the other parts of this chapter authorizes any transaction prohibited by this part. In addition, licenses or authorizations contained in or issued pursuant to any other provision of law or regulation do not authorize any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 555.201 Prohibition on the importation of Soviet gold coins.

No person, including a bank, may import into the United States any gold coin minted in the Union of Soviet Socialist Republics or offered for sale by the Government of the Union of Soviet Socialist Republics.

§ 555.202 Effective date.

The effective date of the prohibition in § 555.201 is 12:01 a.m. Eastern Daylight Time, October 2, 1986.

§ 555.203 Evasions.

The regulations set forth in this part shall apply to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade section 510 or related provisions of the Comprehensive Anti-Apartheid Act of 1986, Pub. L. 99–440, or these regulations.

Subpart C—General Definitions

§ 555.301 Gold coins.

The term "gold coins" includes gold coins of all denominations and sizes, and gold coins that have been modified, as by addition of a clasp or loop, into items that may be worn as jewelry.

§ 555.302 United States.

The term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

§ 555.303 Importation.

The term "importation" means the bringing of any item within the jurisdictional limits of the United States with the intent to unlade it.

§ 555.304 Person.

The term "person" means an individual or an entity.

§ 555.305 Entity.

The term "entity" means a corporation, partnership, association, or other organization.

Subpart D—Interpretations

§ 555.401 Reference to amended sections.

Reference to any section of this chapter or to any regulation, ruling, order, instruction, direction or license issued pursuant to this chapter shall be deemed to refer to the same as currently amended unless otherwise so specified.

§ 555.402 Effect of amendment of sections of this chapter or of other orders, etc.

Any modification of this chapter or of any regulation, ruling, order, instruction, direction or license issued by or under the direction of the Secretary of the Treasury shall not, unless otherwise specifically provided, be deemed to affect liability for any act performed or omitted, or any civil or criminal proceeding commenced prior to such modification, and all penalties, forfeitures, and liabilities under any such regulation, ruling, order, instruction, direction or license shall continue and may be enforced as if such modification had not been made.

§ 555.403 Gold coin jewelry.

Section 555.201 prohibits the importation into the United States of gold coins that have been modified, as by the addition of a clasp or loop, into items that can be worn as jewelry. For example, importation of a necklace consisting of a Soviet gold coin mounted on a chain would not be authorized. Section 555.201 does not prohibit the reimportation into the United States of gold coin jewelry which was originally imported into the United States prior to October 2, 1986, provided that (a) the importer can demonstrate the date of the prior importation to the satisfaction of the Secretary of the Treasury or his delegate, and (b) the jewelry to be reimported is in small quantities and for personal use only.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 555.501 Effect of subsequent license or authorization.

No license or other authorization contained in this chapter or otherwise issued by or under the authority of the Secretary of the Treasury shall be deemed to authorize or validate any transaction effected prior to the issuance thereof unless such license or authorization specifically so provides.

§ 555.502 Exclusion from licenses and authorizations.

The Secretary of the Treasury reserves the right to exclude any person or property from the operation of any license or to restrict the applicability thereof to any person or property. Such action shall be binding upon all persons receiving actual or constructive notice thereof.

Subpart F—Reports

§ 555.601 Required records.

Every person engaging in any act or transaction subject to this part shall keep a full, complete, and accurate record relative to any such act or transaction either before, during, or after the completion thereof, including any transaction effected pursuant to license or otherwise, and such records shall be available for examination for two years after the date of such transaction.

§ 555.602 Reports to be furnished on demand.

Every person is required to furnish under oath, in the form of reports or otherwise, at any time as may be required, complete information relative to any act or transaction subject to this part, regardless of whether such transaction is effected pursuant to license or otherwise. Such reports may be required to include the production of any books of account, contracts, letters, and other papers connected with any transaction in the custody or control of the persons required to make such reports. Reports with respect to transactions may be required before, during or after such transactions are completed. The Secretary of the Treasury may, through any person or agency, conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation.

(Approved by the Office of Management and Budget under control number 1505–0095)

Subpart G—Penalties

§ 555.701 Penalties.

(a) Any person that violates the provisions of section 510 of the Comprehensive Anti-Apartheid Act of 1986 ("the Act"), as implemented by § 555.201 of this part, related provisions of the Act, or any regulation, license, or order issued to carry out such provisions shall be subject to a civil penalty of $50,000.

(b) Any person, other than an individual, that willfully violates the provisions of section 510 of the Act, as implemented by § 555.201 of this part, related provisions of the Act, or any regulation, license, or order issued to carry out such provisions shall be fined not more than $1,000,000.

(c) Any individual who willfully violates the provisions of § 510 of the Act, as implemented by § 555.201 of this part, related provisions of the Act, or any regulation, license, or order issued to carry out such provisions shall be fined not more than $50,000, or imprisoned not more than 10 years, or both.

(d) Whenever a person commits a violation as to which a penalty under paragraphs (a), (b), or (c) of this section applies, (1) any officer, director, or employee of such person, or any natural person in control of such person who knowingly and willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and (2) any agent of such person who knowingly and willfully carried out such act or practice, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

(e) A fine imposed under paragraph (b) of this section on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(f) Any individual who violates section 510 of the Act, as implemented by § 555.201 of this part, related provisions of the Act, or any regulations issued to carry out such provisions shall be fined not more than five times the value of the gold coins involved.

(Comprehensive Anti-Apartheid Act of 1986, Pub. L. 99–440, secs. 510(b) and 603(b) and (c))

(g) Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000, or such greater amount as set forth in 18 U.S.C. 3623, or imprisoned not more than five years, or both.

(18 U.S.C. 1001, 3623)

(h) Violations of this part may also be subject to relevant provisions of the Customs laws and other applicable laws.

Subpart H—Procedures

§ 555.801 Licensing.

(a) *General licenses.* General licenses may be issued authorizing under appropriate terms and conditions certain types of transactions which are subject to the prohibitions contained in Subpart B of this part. All such licenses will be set forth in Subpart E of this part. It is the policy of the Office of Foreign Assets Control not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable. Persons availing themselves

of a general license may be required to file reports and statements in accordance with the instructions specified in that license.

(b) *Specific licenses*—(1) *General course of procedure.* Transactions subject to the prohibitions contained in Subpart B of this part that are not authorized by general license may be effected only under specific licenses. The specific licensing activities of the Office of Foreign Assets Control are performed by its Washington office and by the Foreign Assets Control Division of the Federal Reserve Bank of New York.

(2) *Applications for specific licenses.* Applications for specific licenses to engage in any transaction prohibited under this part are to be filed in duplicate with the Federal Reserve Bank of New York, Foreign Assets Control Division, 33 Liberty Street, New York, NY 10045. Any person having an interest in a transaction or proposed transaction may file an application for a license authorizing such transaction, and there is no requirement that any other person having an interest in such transaction shall or should join in making or filing such application.

(3) *Information to be supplied.* The applicant must supply all information specified by the respective forms and instructions. Such documents as may be relevant shall be attached to each application except that documents previously filed with the Office of Foreign Assets Control may, where appropriate, be incorporated by reference. Applicants may be required to furnish such further information as is deemed necessary to a proper determination by the Office of Foreign Assets Control. Failure to furnish necessary information will not be excused because of any provision of the law of the Union of Soviet Socialist Republics. If an applicant or other party in interest desires to present additional information or discuss or argue the application, he may do so at any time before or after decision. Arrangements for oral presentation should be made with the Office of Foreign Assets Control.

(4) *Effect of denial.* The denial of a license does not Preclude the reopening of an application or the filing of a further application. The applicant or any other party in interest may at any time request explanation of the reasons for a denial by correspondence or personal interview.

(5) *Reports under specific licenses.* As a condition of the issuance of any license, the licensee may be required to file reports with respect to the transaction covered by the license, in such form and at such times and places as may be prescribed in the license or otherwise.

(6) *Issuance of license.* Licenses will be issued by the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury or by the Federal Reserve Bank of New York, acting in accordance with such regulations, rulings, and instructions as the Secretary of the Treasury or the Office of Foreign Assets Control may from time to time prescribe, or licenses may be issued by the Secretary of the Treasury acting directly or through a designated person, agency, or instrumentality.

§ 555.802 Decisions.

The Office of Foreign Assets Control or the Federal Reserve Bank of New York will advise each applicant of the decision respecting filed applications. The decision of the Office of Foreign Assets Control with respect to an application shall constitute a final agency action.

§ 555.803 Amendment, modification, or revocation.

The provisions of this part and any rulings, licenses, authorizations, instructions, orders or forms issued hereunder may be amended, modified, or revoked at any time.

§ 555.804 Rulemaking.

(a) All rules and other public documents are issued by the Secretary of the Treasury upon recommendation of the Director of the Office of Foreign Assets Control. Except to the extent that there is involved any military, naval, or foreign affairs function of the United States or any matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts, and except when interpretive rules, general statements of policy, or rules of agency organization, practice, or procedure are involved, or when notice and public procedure are impracticable, unnecessary, or contrary to the public interest, interested persons will be afforded an opportunity to participate in rulemaking through the submission of written data, views, or arguments, with oral presentation in the discretion of the Director. In general, rulemaking by the Office of Foreign Assets Control involves foreign affairs functions of the United States. Wherever possible, however, it is the practice to hold informal consultations with interested groups or persons before the issuance of any rule or other public document.

(b) Any interested person may petition the Director of the Office of Foreign Assets Control in writing for the issuance, amendment or revocation of any rule.

§ 555.805 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take with respect to the subject matter of this part may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

§ 555.806 Rules governing availability of information.

(a) The records of the Office of Foreign Assets Control that are required by 5 U.S.C. 552 to be made available to the public shall be made available in accordance with the definitions, procedures, payment of fees, and other provisions of the regulations on the disclosure of records of the Office of the Secretary and of other bureaus and offices of the Department issued under 5 U.S.C. 552 and published as Part 1 of this Title 31 of the Code of Federal Regulations.

(b) Any form issued for use in connection with this part may be obtained in person from or by writing to the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220, or the Foreign Assets Control Division, Federal Reserve Bank of New York, 33 Liberty Street, New York, NY 10045.

Dated: November 12, 1986.

Cheryl A. Opacinch,

Acting Director, Office of Foreign Assets Control.

Approved: November 14, 1986.

Francis A. Keating II,

Assistant Secretary (Enforcement).

[FR Doc. 86-26115 Filed 11-17-86; 12:14 pm]

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federal register

Wednesday,
November 19, 1986

Part VI

Department of Education

34 CFR Parts 668, 674, 675, 676, and 690
Student Assistance General Provisions, National Direct Student Loan Program, College Work-Study Program, Supplemental Educational Opportunity Grant Program and Pell Grant Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Parts 668, 674, 675, 676, and 690

Student Assistance General Provisions, National Direct Student Loan Program, College Work-Study Program, Supplemental Educational Opportunity Grant Program, and Pell Grant Program

AGENCY: Department of Education.
ACTION: Final regulations.

SUMMARY: The Secretary amends Subpart A of the Student Assistance General Provisions regulations and the student eligibility criteria in the regulations for the National Direct Student Loan, College Work-Study, Supplemental Educational Opportunity Grant, and Pell Grant programs. These regulations, amended as a result of the Secretary's review of current regulations and recent statutory changes, consolidate program definitions, clarify requirements, and implement new statutory requirements.

These regulations do not reflect changes to the authorizing legislation for these programs made by the Higher Education Amendments of 1986 recently enacted by the Congress. Regulations to implement those changes will be issued as soon as possible.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Fred Sellers or Mike High, U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue SW. (Regional Office Building 3, Room 4318), Washington, DC 20202. Telephone number (202) 472–4300.

SUPPLEMENTARY INFORMATION: This regulation amends Subpart A of the Student Assistance General Provisions regulations and makes several technical changes to the National Direct Student Loan (NDSL), College Work-Study (CWS), Supplemental Educational Opportunity Grant (SEOG), and Pell Grant programs.

A Notice of Proposed Rulemaking (NRPM) for the Student Assistance General Provisions regulations was published in the **Federal Register** on December 12, 1984, 49 FR 48494. These regulations were proposed to clarify requirements, to reduce administrative burden on postsecondary institutions, and to consolidate definitions and provisions common to the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended (HEA) that were previously contained in the individual program regulations.

The comments on the NPRM have been reviewed, and final regulations for Subparts B, D, F, and G are being prepared for later publication. The Secretary is publishing Subpart A of the Student Assistance General Provisions regulations at this time to ensure that the definitions contained in Subpart A will become effective at the same time as final regulations for the GSL and PLUS programs become effective. In addition, these regulations amend the NDSL, CWS, SEOG, and Pell Grant program regulations to implement the requirements of Section 16032(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 and the Compact of Free Association.

The following is a discussion of the major changes contained in the final regulations. A summary of the comments received on Subpart A of the Student Assistance General Provisions regulations and the Department's response to those comments are included as an appendix to the regulations.

Revisions to the Notice of Proposed Rulemaking

Only a few significant changes have been made to Subpart A of the Student Assistance General Provisions regulations that were published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on December 12, 1984, 49 FR 48494. They are as follows:

Section 668.2 General definitions.

Enrolled: Two changes have been made to the definition of "enrolled." First, an exception has been made to the requirement that the student must have completed the registration requirements at the institution he or she is attending to be considered at that institution. The definition now specifies that a student is considered to be enrolled if he or she has completed the registration requirements other than the payment of tuition and fees. This change was made to eliminate the possibility that a student would be unable to satisfy an eligibility criterion for Title IV, HEA assistance because he or she was unable to use that assistance to pay his or her tuition and fee charges at the institution.

Second, the requirement that a student must have begun attending classes to be considered enrolled has been eliminated. This requirement was only relevant in establishing the date at which GSL funds could be released to the student. The Secretary is amending the GSL regulations separately to permit the release of GSL funds to the student prior to the first day of classes under certain conditions.

Regular student: The Secretary is revising the definition of "regular student" to eliminate the requirement that a regular student must be enrolled or accepted for enrollment in an "eligible program." A regular student is now defined as a student who is enrolled or accepted for enrollment at an institution for the purpose of obtaining a degree or certificate. The "eligible student" definitions for the NDSL, CWS, SEOG and Pell Grant programs (§§ 690.4, 674.9, 675.9, and 676.9) are amended to include enrollment in an eligible program as a criterion for an eligible student. The eligible program requirement is not applicable under the GSL and PLUS programs.

Sections 668.3 through 668.6 Definitions of eligible institutions—Ability to benefit.

An eligible institution or vocational school may admit as regular students persons beyond the age of compulsory school attendance in the State in which the institution or school is located who have the "ability to benefit" from the training it offers. The Secretary has become aware that there has been some confusion concerning the records needed to document a person's ability to benefit. To eliminate this confusion, the Secretary has modified the provisions proposed in §§ 668.3–668.6 to clarify that an institution must be able to demonstrate that it has developed and consistently applied its standards for determining a person's ability to benefit and must be able to demonstrate that each regular student admitted on the basis of its "ability to benefit" standard had that ability. Documentation of each regular student's ability to benefit must be retained by the institution for at least five years. In addition, the Secretary is amending the NDSL, CWS, SEOG, and Pell Grant program regulations to clarify that a student who does not have a high school diploma or recognized equivalent must have the ability to benefit from the training offered by that institution to be eligible for assistance from those programs.

Revisions to Program Regulations

Several changes have been made to the student eligibility criteria in the NDSL, CWS, SEOG, and Pell Grant program regulations to reflect changes made to the programs by the Compact of Free Association, Pub. L. 99–239, and by

section 16032(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99–272. The affected sections are § 674.9 (NDSL), § 675.9 (CWS), § 676.9 (SEOG), and §§ 690.4 and 690.75 (Pell Grants). Similar changes are being made separately to final regulations for the GSL/PLUS and State Student Incentive Grant programs, which are expected to be published shortly.

Compact of Free Association

On January 14, 1986, President Reagan signed the Compact of Free Association, which will terminate the trusteeship status of certain islands in the Pacific that were previously part of the Trust Territory of the Pacific Islands. This Compact will create two new entities—the Federated States of Micronesia and the Marshall Islands. In addition, another separate Compact is currently under consideration by the Congress which will create an independent entity, the Republic of Palau. Although the first Compact was signed into law on January 14, 1986, the effective date is being delayed, pending enactment of the Palau Compact.

Under these Compacts of Free Association, the citizens of the affected islands will continue to be eligible for Title IV, HEA program assistance. Therefore, the Secretary is revising the student eligibility criteria in the Title IV, HEA program regulations to include the citizens of the Marshall Islands, the Federated States of Micronesia, and Republic of Palau, in anticipation that the Compacts will become effective in the near future. However, the Secretary has also retained the references to the Trust Territory of the Pacific Islands to maintain the eligibility of permanent residents of the Trust Territory until the Compacts become effective.

Consolidated Omnibus Budget Reconciliation Act of 1985

Section 16032(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 amended the HEA to make statutorily ineligible for all Title IV, HEA assistance a student or parent who is in default on a NDSL, GSL, or PLUS loan made for attendance at any institution or owes a repayment on a SEOG, Pell Grant, or SSIG awarded for attendance at any institution.

The NDSL, CWS, SEOG and Pell Grant program regulations have been amended to incorporate this eligibility criterion and to specify that a student who is in default on a National Defense (or Direct) Student Loan may receive further Title IV, HEA program assistance if the institution that made the loan, or the Secretary in the case of an assigned loan, certifies that the student has made satisfactory arrangements to repay the loan.

Waiver of Notice of Proposed Rulemaking

The changes to the NDSL, CWS, SEOG and Pell Grant program regulations as described above were not included in the notice of proposed rulemaking for the Student Assistance General Provisions regulations. In accordance with section 431(b)(2)(A) of the General Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on the proposed regulations. However, these changes do not implement substantive policy, but merely implement the terms of the Compact of Free Association and the statutory amendment contained in Section 16032(a) of Pub. L. 99–272. Therefore, the Secretary finds that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Executive Order 12291

These final regulations have been reviewed in accordance with Executive Order 12291. They are classified as nonmajor because they do not meet the criteria for major regulations established in the Order.

Assessment of Educational Impact

In the Notice of Proposed Rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the absence of any comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Parts 668, 674, 675, 676 and 690

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Education loan programs-education, Grant programs-education, Loan programs-education, Student aid, Reporting and recordkeeping requirements.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

Dated: October 10, 1986.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant Program, 84.007; Guaranteed Student Loan Program, 84.032; PLUS Program, 84.032; College Work-Study Program, 84.033; National Direct Student Loan Program, 84.038; Pell Grant Program, 84.063; State Student Incentive Grant Program, 84.069)

PART 668—[AMENDED]

The Secretary of Education amends Parts 668, 674, 675, 676 and 690 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

Subpart A—General

Sec.

668.1 Scope.
668.2 General definitions.
668.3 Public or private nonprofit institution of higher education.
668.4 Proprietary institution of higher education.
668.5 Postsecondary vocational institution.
668.6 Vocational school.
668.7 Definition of an independent student.

* * * * *

1. The authority citation for Part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141, unless otherwise noted.

2. Subpart A of the Table of Contents of Part 668 is revised to read as follows:

3. Part 668 is amended by revising Subpart A to read as follows:

Subpart A—General

§ 668.1 Scope.

(a) This part establishes general rules that apply to an institution that participates in any student financial assistance program authorized by Title IV of the Higher Education Act of 1965, as amended (Title IV, HEA program).

(b) As used in this part, an "institution" includes—

(1) A public or private nonprofit institution of higher education as defined in § 668.3;

(2) A proprietary institution of higher education as defined in § 668.4;

(3) A postsecondary vocational institution as defined in § 668.5; and

(4) A vocational school as defined in § 668.6.

(c) The Title IV, HEA programs include—

(1) The Pell Grant Program (20 U.S.C. 1070a; 34 CFR Part 690);

(2) The Supplemental Educational Opportunity Grant (SEOG) Program (20 U.S.C. 1070b; *et seq.;* 34 CFR Part 676);

(3) The State Student Incentive Grant (SSIG) Program (20 U.S.C. 1070c *et seq.;* 34 CFR Part 692);

(4) The Guaranteed Student Loan (GSL) Program (20 U.S.C. 1071 *et seq.;* 34 CFR Part 682);

(5) The PLUS Program (20 U.S.C. 1078–2; 34 CFR Part 683);

(6) The College Work-Study (CWS) Program (42 U.S.C. 2751 *et seq.;* 34 CFR Part 675); and

(7) The National Direct Student Loan (NDSL) Program (20 U.S.C. 1087aa *et seq.;* 34 CFR Part 674).

(Authority: 20 U.S.C. 1070 *et seq.*)

§ 668.2 General definitions.

The following definitions apply to all Title IV, HEA programs:

Academic year: (a) A period of time in which a full-time student is expected to complete the equivalent of at least two semesters, two trimesters or three quarters at an institution which measures academic progress in credit hours and uses a semester, trimester or quarter system;

(b) A period of time in which a full-time student is expected to complete at least 24 semester hours or 36 quarter hours at an institution which measures academic progress in credit hours but does not use a semester, trimester or quarter system; or

(c) At least 900 clock hours at an institution which measures academic progress in clock hours.

(Authority: 20 U.S.C. 1088)

Award year: The period of time from July 1 of one year through June 30 of the following year.

Campus-based programs: (a) The National Direct Student Loan (NDSL) Program (34 CFR Part 674);

(b) The College Work-Study (CWS) Program 34 CFR Part 675); and

(c) The Supplemental Educational Opportunity Grant (SEOG) Program (34 CFR Part 676).

Clock hour: The equivalent of—

(a) A 50 to 60 minute class, lecture or recitation;

(b) A 50 to 60 minute faculty supervised laboratory, shop training, or internship; or

(c) Sixty minutes of preparation in a program of study by correspondence.

College Work Study Program (CWS): The part-time employment program for students authorized by Title IC–C of the HEA.

(Authority: 42 U.S.C. 2751–2756b)

Defense loan: A loan made before July 1, 1972, Under Title II of the National Defense Education Act.

(Authority: 20 U.S.C. 421–429)

Dependent student: Any student who does not qualify as an independent student as defined in § 668.7.

Direct loan: A loan made after June 30, 1972, under Title IV–E of the HEA.

(Authority: 20 U.S.C. 1087aa *et seq.*)

Enrolled: The status of a student who—

(a) Has completed the registration requirements (except for the payment of tuition and fees) at the institution he or she is attending; or

(b) Has been admitted into a correspondence study program and has submitted one lesson, completed by him or her after acceptance for enrollment and without the help of a representative of the school.

Guaranteed Student Loan (GSL) Program: The student loan program authorized by Title IV–B of the HEA.

(Authority: 20 U.S.C. 1071 *et seq.*)

HEA: The Higher Education Act of 1965, as amended.

(Authority: 20 U.S.C. 1070 *et seq.*.)

National Defense Student Loan Program: The student loan program authorized by Title II of the National Defense Education Act of 1958.

(Authority: 20 U.S.C. 421–429)

National Direct Student Loan (NDSL) Program: The student loan program authorized by Title IV–E of the HEA.

(Authority: 20 U.S.C. 1087aa–1087ii)

One year training program: A program which is at least—

(a) Twenty-four semester or trimester hours or units, or 36 quarter hours or units at an institution using credit hours or units to measure academic progress;

(b) Nine hundred clock hours of supervised training at an institution using clock hours to measure academic progress; or

(c) Nine hundred clock hours in a correspondence program.

(Authority: 20 U.S.C. 1141(a))

Parent: A student's natural or adoptive mother or father. A parent also includes a student's legal guardian who has been appointed by a court and who is specifically required by the court to use his or her own resources to support the student.

Pell Grant Program: The grant program authorized by Title IV–A–1 of the HEA.

(Authority: 20 U.S.C. 1070a)

PLUS Program: The loan program authorized by Title IV–B of the HEA.

(Authority: 20 U.S.C. 1078–2)

Recognized equivalent of a high school diploma: (a) A General Education Development (GED) Certificate; or

(b) A State certificate received by a student after the student has passed a State authorized examination which the State recognizes as the equivalent of a high school diploma.

(Authority: 20 U.S.C. 1141(a))

Regular student: A person who is enrolled or accepted for enrollment at an institution for the purpose of obtaining a degree or certificate.

Secretary: The Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

Six month training program: (a) A program which is at least—

(1) Sixteen semester or trimester hours or units, or 24 quarter hours or units, at an institution using credit hours or units to measure academic progress;

(2) Six hundred clock hours of supervised training at an institution using clock hours to measure academic progress; or

(3) Six hundred clock hours in a correspondence program.

(b) A program which the Secretary determines is at least a six month training program on the basis of—

(1) A certification by the nationally recognized accrediting association that accredits the institution that the program offered by the institution is equal in course content and student workload to the comparable clock or credit hour program described in paragraphs (a)(1) through (3) of this definition; and

(2) The Secretary's ratification of that accrediting agency's determination.

(Authority: 20 U.S.C. 1088)

State: The States of the Union, American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(Authority: 20 U.S.C. 1141(b); 20 U.S.C. 1088(a))

State Student Incentive Grant (SSIG) Program: The grant program authorized by Title IV–A–3 of the HEA.

(Authority: 20 U.S.C. 1070c *et seq.*)

Supplemental Educational Opportunity Grant (SEOG) Program: The grant program authorized by Title IV–A–2 of the HEA.

(Authority: 20 U.S.C. 1070b *et seq.*)

U.S. citizen or national: (a) A citizen of the United States; or (b) A person defined in the Immigration and Nationality Act, 8 U.S.C. 1101(a)(22), who, though not a citizen of the United States, owes permanent allegiance to the United States.

(Authority: 8 U.S.C. 1101)

(Authority: 20 U.S.C. 1070 *et seq.* unless otherwise noted)

§ 668.3 Public or private nonprofit institution of higher education.

(a) A public or private nonprofit institution of higher education is a public or private nonprofit educational institution which—

(1) Is in a State;

(2) Admits as regular students only persons who—

(i) Have a high school diploma;

(ii) Have the recognized equivalent of a high school diploma; or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is located and, if the institution seeks to participate in a Title IV, HEA program other than the GSL, or PLUS programs, have the ability to benefit from the training offered.

(3) Is legally authorized to provide an educational program beyond secondary education in the State in which the institution is physically located;

(4) Provides—

(i) An educational program for which it awards an associate, baccalaureate, graduate, or professional degree;

(ii) At least a two year program which is acceptable for full credit toward a baccalaureate degree; or

(iii) At least a one year training program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation; and

(5) Is—

(i) Accredited by a nationally recognized accrediting agency or association;

(ii) Approved by a State agency recognized by the Secretary as a reliable authority on the quality of public postsecondary vocational education in its State, if the institution is a public postsecondary vocational educational institution;

(iii) An institution which has satisfactorily assured the Secretary that it will meet the accreditation standards of an approved agency or association within a reasonable time, considering the resources available to the institution, the period of time it has operated and its efforts to meet accreditation standards; or

(iv) An institution whose credits are determined by the Secretary to be accepted on transfer by at least three accredited institutions on the same basis as transfer credits from fully accredited institutions.

(b) For the purposes of this section, the Secretary publishes a list of nationally recognized accrediting agencies or associations and State approval agencies that the Secretary has determined to be reliable authorities as to the quality of education or training offered.

(c)(1) An institution that admits as regular students, persons who do not have a high school diploma or recognized equivalent and who are beyond the age of compulsory school attendance in the State in which the institution is located, shall develop and consistently apply standards for determining whether these students have the ability to benefit from the education or training it offers.

(2) An institution must be able to demonstrate, upon request of the Secretary, that each regular student it admitted who did not have a high school diploma or recognized equivalent satisfied the institution's standards under paragraph (c)(1) of this section.

(Authority: 20 U.S.C. 1085, 1094(b)(3) and 1141(a))

§ 668.4 Proprietary institution of higher education.

(a) A proprietary institution of higher education is an educational institution which—

(1) Is not a public or private nonprofit educational institution;

(2) Is in a State;

(3) Admits as regular students only persons who—

(i) Have a high school diploma;

(ii) Have the recognized equivalent of a high school diploma; or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is located and have the ability to benefit from the training offered;

(4) Is legally authorized to provide postsecondary education in the State in which it is physically located;

(5) Provides at least a six month program of training to prepare students for gainful employment in a recognized occupation;

(6) Is accredited by a nationally recognized accrediting agency or association; and

(7) Has been in existence for at least two years. The Secretary considers a school to have been in existence for two years if it has been legally authorized to provide, and has provided, a continuous training program to prepare students for gainful employment in a recognized occupation during the 24 months (except for normal vacation periods) preceding the date of application for eligibility.

(b) For the purposes of this section, the Secretary publishes a list of nationally recognized accrediting agencies or associations and State approval agencies that the Secretary has determined to be reliable authorities as to the quality of education or training offered.

(c)(1) An institution that admits as regular students, persons who do not have a high school diploma or recognized equivalent and who are beyond the age of compulsory school attendance in the State in which the institution is located, shall develop and consistently apply standards for determining whether these students have the ability to benefit from the education or training it offers.

(2) An institution must be able to demonstrate, upon request of the Secretary, that each regular student it admitted who did not have a high school diploma or recognized equivalent satisfied the institution's standards under paragraph (c)(1) of this section.

Authority: (20 U.S.C. 1088(b), 1094(b)(3) and 1141(a))

§ 668.5 Postsecondary vocational institution.

(a) A postsecondary vocational institution is a public or private non-profit educational institution which—

(1) Is in the State;

(2) Admits as regular students only persons who—

(i) Have a high school diploma;

(ii) Have the recognized equivalent of a high school diploma; or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is located and have the ability to benefit from the training offered.

(3) Is legally authorized to provide an educational program beyond secondary education in the State in which the institution is physically located;

(4) Provides at least a six-month program of training to prepare students for gainful employment in a recognized occupation;

(5) Is—

(i) Accredited by a nationally recognized accrediting agency or association;

(ii) Approved by a State agency recognized by the Secretary as a reliable authority on the quality of public postsecondary vocational education in its State, if the institution is a public postsecondary vocational educational institution;

(iii) An institution which has satisfactorily assured the Secretary that

it will meet the accreditation standards of an approved agency or association within a reasonable time, considering the resources available to the institution, the period of time it has operated and its effort to meet accreditation standards; or

(iv) An institution whose credits are determined by the Secretary to be accepted on transfer by at least three accredited institutions on the same basis as transfer credits from fully accredited institutions.

(6) Has been in existence for at least two years. The Secretary considers an institution to have been in existence for two years if it has been legally authorized to provide, and has provided, a training program on a continuous basis to prepare students for gainful employment in a recognized occupation during the 24 months (except for normal vacation periods) preceeding the date of application for eligibility.

(b) For the purposes of this section, the Secretary publishes a list of nationally recognized accrediting agencies or associations and State-approval agencies that the Secretary has determined to be reliable authorities as to the quality of education or training offered.

(c)(1) An institution that admits as regular students, persons who do not have a high school diploma or recognized equivalent and who are beyond the age of compulsory school attendance in the State in which the institution is located, shall develop and consistently apply standards for determining whether these students have the ability to benefit from the education or training it offers.

(2) An institution must be able to demonstrate, upon request of the Secretary, that each regular student it admitted who did not have a high school diploma or recognized equivalent satisfied the institution's standards under paragraph (c)(1) of this section.

(Authority: 20 U.S.C. 1068, 1094(b)(3) and 1141(a))

§ 668.6 Vocational school.

(a) A vocational school is a business or trade school, or technical institution, or other technical or vocational school which—

(1) Is in a State;

(2) Admits as regular students only persons who—

(i) Have completed or left elementary or secondary school; and

(ii) Have the ability to benefits from the training offered.

(3) Is legally authorized in the State in which it is physically located to provide, and provides within that State, a program of postsecondary vocational or technical education that—

(i) Is designed to provide occupational skills more advanced than those generally offered at the high school level and to fit individuals for useful employment in recognized occupations;

(ii) Is no less than—

(A) Three hundred clock hours of supervised training at institutions using clock hours to measure academic progress; or

(B) eight semester or trimester hours or units or 12 quarter hours or units at institutions using credit hours or units to measure academic progress;

(iii) In the case of a program of study by correspondence, requires not less than an average of 12 hours of preparation per week over each 12-week period and completion in not less than six months; and

(iv) In the case of a flight school program, maintains current valid certification by the Federal Aviation Administration;

(4) Has been in existence for two years or has been specially determined by the Secretary to be a school meeting the other requirements of this section and to be eligible to participate in the GSL or PLUS programs; and

(5)(i) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary for this purpose; or

(ii) In the case of a public institution offering postsecondary vocational education, is approved by a State approval agency recognized by the Secretary for this purpose.

(b) For the purposes of this section, the Secretary published a list of nationally recognized accrediting agencies or associations and State approval agencies that the Secretary has determined to be reliable authorities as to the quality of education or training offered.

(c)(1) An institution that admits as regular students, persons who do not have a high school diploma or recognized equivalent and who have completed or left elementary or secondary school, shall develop and consistently apply standards for determining whether these students have the ability to benefit from the education or training it offers.

(2) An institution must be able to demonstrate, upon request of the Secretary, that each regular student it admitted who did not have a high school diploma or recognized equivalent satisfied the institution's standards under paragraph (c)(1) of this section.

(Authority: 20 U.S.C. 1085 and 1094(b)(3)).

§ 668.7 Definition of an independent student.

(a) An independent student is a student whom the Secretary considers to be independent of his or her parent(s) for purposes of the Pell Grant, Supplemental Educational Opportunity Grant, College Work-Study, National Direct Student Loan, Guaranteed Student Loan, and PLUS programs. The determination of whether the student is independent is based on the criteria set forth in paragraphs (b) through (d) of this section.

(b) Subject to the provisions of paragraphs (c) and (d) of this section, a student qualifies as an independent student for an award year if the student—

(1) Does not, during any of the relevant years described in paragraph (c) of this section, live for more than six weeks in the home of his or her parent(s) for whom income must be reported;

(2) Is not, for any of the relevant years described in paragraph (c) of this section, claimed as a dependent for Federal income tax purposes by those parent(s); and

(3) Does not, during any of the relevant years described in paragraph (c) of this section, receive financial assistance of more than $750 from those parent(s).

(c) Except as provided in paragraph (d) of this section, to qualify as an independent student for any award year—

(1) An unmarried student must satisfy the criteria set forth in paragraph (b) of this section for the first calendar year of the award year and the preceding calendar year; and

(2) A married student must satisfy the criteria set forth in paragraph (b) of this section for the first calendar year of the award year.

(d) The Secretary considers any student to be an independent student if, before the end of the award year—

(1) The student's parents die; or

(2) The student is declared a ward of a court.

(e) The following definition applies to this section;

Parent(s) for whom income must be reported: A parent for whom income must be reported under § 690.33 of the Pell Grant Program regulations, 34 CFR 690.33. For this purpose, the references in § 690.33(d) to the date of the student's application are to the date the student applies for a loan under the Guaranteed Student Loan or PLUS programs or applies to have his expected family contribution determined under the Pell Grant, Supplemental Educational

Opportunity Grant, College Work-Study, or National Direct Student Loan programs.

(Authority: 20 U.S.C. 1089(c)(2) and sec. 5 of Pub. L. 97-301 as amended by sec. 4 of Pub. L. 98-79)

PART 674—NATIONAL DIRECT STUDENT LOAN PROGRAM

4. The authority citation for Part 674 is revised to read as follows:

Authority: 20 U.S.C. 421–429 and 1087aa–1087ii, unless otherwise noted.

5. In § 674.9, paragraphs (a), (e)(2), (f) introductory text, and (f)(2) are revised to read as follows:

§ 674.9 Student eligibility.

(a) *Eligibility.* A student is eligible to receive an NDSL at an institution of higher education if the student—

(1) Is a regular student;

(2) Is enrolled or accepted for enrollment as at least a half-time undergraduate, graduate or professional student in an eligible program at that institution;

(3)(i) Has a high school diploma or recognized equivalent; or

(ii) Is above the age of compulsory school attendance in the State in which the institution he or she is attending is located and has the ability to benefit from the education or training offered by that institution;

(4)(i) Is a U.S. citizen or national;

(ii) Is a permanent resident of the U.S.;

(iii) Provides evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident;

(iv) Is a permanent resident of the Trust Territory of the Pacific Islands, or the Northern Mariana Islands; or

(v) Is a citizen of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau;

(5) Has financial need;

(6) Is maintaining satisfactory progress in the course of study he or she is pursuing according to the standards and practices of that institution;

(7) Does not owe a refund on a grant awarded under the Pell Grant, SEOG or SSIG programs to meet the cost of attending any institutions; and

(8) Is not in default on any loan made under the National Defense/Direct Student Loan, GSL, or PLUS programs to meet the cost of attending any institution.

* * * * *

(e) * * *

(2) *Overpayment of a Pell Grant due to institutional error.* If the institution makes an overpayment of a Pell Grant as a result of its own error and cannot correct it as specified in paragraph (e)(1) of this section, it may continue to disburse an NDSL to that student if the student—

* * * * *

(f) *Default on loans.* If a student is in default on a loan made under the National Defense/Direct Student Loan, GSL or PLUS programs for attendance at any institution, the institution may nevertheless make an NDSL payment to that student under the following conditions:

* * * * *

(2) *National Defense/Direct Student Loan.* An institution may make an NDSL or continue to advance NDSL funds to a student who is in default on a National Defense/Direct Student Loan if the institution that made the loan, or the Secretary, if the loan has been assigned to the Department of Education, certifies that the student has made satisfactory arrangements to repay that loan.

* * * * *

PART 675—COLLEGE WORK-STUDY PROGRAM

6. The authority citation for Part 675 is revised to read as follows:

Authority: 42 U.S.C. 2751–2756a, unless otherwise noted.

7. In § 675.9, paragraphs (a), (f)(2), (g) introductory text, and (g)(2) are revised to read as follows:

§ 675.9 Student eligibility.

(a) *Eligibility.* A student at an institution of higher education is eligible to receive part-time CWS employment under the CWS Program if the student—

(1) Is a regular student;

(2) Is enrolled or accepted for enrollment as an undergraduate, graduate or professional student in an eligible program at that institution;

(3)(i) Has a high school diploma or recognized equivalent; or

(ii) Is above the age of complusory school attendance in the State in which the institution he or she is attending is located and has the ability to benefit from the education or training offered by that institution;

(4)(i) Is a U.S. citizen or national;

(ii) Is a permanent resident of the U.S.;

(iii) Provides evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident;

(iv) Is a permanent resident of the Trust Territory of the Pacific Islands, or the Northern Mariana Islands; or

(v) Is a citizen of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau;

(5) Has financial need;

(6) Is maintaining satisfactory progress in the course of study he or she is pursuing according to the standards and practices of that institution;

(7) Does not owe a refund on a grant awarded under the Pell Grant, SEOG, or SSIG programs to meet the cost of attending any institution; and

(8) Is not in default on any loan made under the National Defense/Direct Student Loan, GSL, or PLUS programs to meet the cost of attending any institution.

* * * * *

(f) * * *

(2) *Overpayment of a Pell Grant due to institutional error.* If the institution makes an overpayment of a Pell Grant as a result of its own error and cannot correct it as specified in paragraph (f)(1) of this section, it may continue to employ that student under the CWS Program if the student—

* * * * *

(g) *Default on loans.* If a student is in default on a loan made under the National Defense/Direct Student Loan, GSL, or PLUS programs for attendance at any institution, the institution may nevertheless continue to employ that student under the CWS Program under the following conditions:

* * * * *

(2) *National Defense/Direct Student Loan.* An institution may continue to employ a student under the CWS Program who is in default on a National Defense/Direct Student Loan if the institution that made the loan, or the Secretary, if the loan has been assigned to the Department of Education, certifies that the student has made satisfactory arrangements to repay that loan.

* * * * *

PART 676—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

8. The authority citation for Part 676 is revised to read as follows:

Authority: 20 U.S.C. 1070b–1071b–3, unless otherwise noted.

9. In § 676.9, paragraphs (a), (e)(2), (f) introductory text, and (f)(2) are revised to read as follows:

§ 676.9 Student eligibility.

(a) *Eligibility.* A student is eligible to receive an SEOG at an institution of higher education if the student—

(1) Is a regular student;

(2) Is enrolled or accepted for enrollment as an undergraduate student in an eligible program at that institution;

(3) Has not earned a baccalaureate or first professional degree;

(4)(i) Has a high school diploma or recognized equivalent; or

(ii) Is above the age of compulsory attendance in the State in which the institution he or she is attending is located and has the ability to benefit from the education or training offered by that institution;

(5)(i) Is a U.S. citizen or national;

(ii) Is a permanent resident of the U.S.;

(iii) Provides evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident;

(iv) Is a permanent resident of the Trust Territory of the Pacific Islands, or the Northern Mariana Islands; or

(v) Is a citizen of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau;

(6) Has financial need;

(7) Is maintaining satisfactory progress in the course of study he or she is pursuing according to the standards and practices of that institution;

(8) Does not owe a refund on a grant awarded under Pell Grant, SEOG, or SSIG programs to meet the cost of attending any institution; and

(9) Is not in default on any loan made under the National Defense/Direct Student Loan, GSL, or PLUS programs to meet the cost of attending any institution.

* * * * *

(e) * * *

(2) *Overpayment of a Pell Grant due to institutional error.* If the institution makes an overpayment of a Pell Grant as a result of its own error and cannot correct it as specified in paragraph (e)(1) of this section, it may continue to disburse SEOG funds to that student if the student—

* * * * *

(f) *Default on loans.* If a student is in default on a loan made under the National Defense/Direct Student Loan, GSL, or PLUS programs for attendance at any institution, the institution may nevertheless make an SEOG payment to that student under the following conditions:

* * * * *

(2) *National Defense/Direct Student Loan.* An institution may pay an SEOG to a student who is in default on a National Defense/Direct Student Loan if the institution that made the loan, or the Secretary, if the loan has been assigned to the Department of Education, certifies that the student has made satisfactory arrangements to repay the loan.

* * * * *

PART 690—PELL GRANT PROGRAM

10. The authority section for Part 690 is revised to read as follows:

Authority: 20 U.S.C. 1070a, unless otherwise noted.

§ 690.2 [Amended]

11. Section 690.2 is amended by removing the term "Act" from the listing of terms in § 690.2(a).

12. In § 690.4, paragraph (a) is revised to read as follows:

§ 690.4 Student eligibility.

(a) *Eligibility.* A student is eligible to receive a Pell Grant at an institution of higher education if the student—

(1) Is a regular student;

(2) Is enrolled as at least a half-time undergraduate student in an eligible program at that institution;

(3) Has not earned a baccalaureate or first professional degree;

(4)(i) Has a high school diploma or recognized equivalent; or

(ii) Is above the age of compulsory school attendance in the State in which the institution he or she is attending is located and has the ability to benefit from the education or training offered by that institution;

(5)(i) Is a U.S. citizen or national;

(ii) Provides evidence from the U.S. Immigration and Naturalization Service that he or she—

(A) Is a permanent resident of the United States; or

(B) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident;

(iii) Is a permanent resident of the Trust Territory of the Pacific Islands, or the Northern Mariana Islands; or

(iv) Is a citizen of the Marshall Islands, the Federated States of Micronesia or the Republic of Palau; and

(6) Meets the requirements of § 690.75.

* * * * *

13. In § 690.75 paragraphs (a)(3) and (a)(4) are revised, paragraph (a)(5) is removed, paragraph (a)(6) is redesignated as paragraph (a)(5), and the introductory text of paragraph (g) and paragraph (g)(2) are revised to read as follows:

§ 690.75 Determination of eligibility for payment.

(a) * * *

(3) Is not in default on any loan made under the National Defense/Direct Student Loan, GSL, or PLUS programs to meet the cost of attending any institution;

(4) Does not owe a refund on a grant awarded under the Pell Grant, SEOG or SSIG programs to meet the cost of attending any institution; and

* * * * *

(g) *Default on loans.* If a student is in default on a loan made under the National Defense/Direct Student Loan, GSL, or PLUS programs for attendance at any institution, the institution may nevertheless make a Pell Grant payment to that student under the following conditions:

* * * * *

(2) *National Defense/Direct Student Loan.* An institution may make a Pell Grant payment to a student who is in default on a National Defense/Direct Student Loan if the institution that made the loan, or the Secretary, if the loan has been assigned to the Department of Education, certifies that the student has made satisfactory arrangements to repay that loan.

* * * * *

Appendix—Summary of Comments and Responses

Note: This appendix will not be codified in the Code of Federal Regulations.

Section 668.2—General definitions.

Enrolled

Comment: Most of the commenters were opposed to the proposed requirement that a student must have begun attending classes in order to be considered enrolled. Several commenters thought that this new requirement would conflict with GSL and Pell disbursements. Several commenters suggested that this would present an administrative hardship since registration may occur one day and classes start a day or two later. Three commenters approved of the new requirement.

Response: A change has been made. Although the Pell Grant regulations explicitly permit payment to students before the first day of classes, the Secretary recognizes that the proposed definition of "enrolled" would prevent students from using GSL funds to pay institutional charges prior to the first day of classes. Therefore, the Secretary is amending the definition of "enrolled" to remove the requirement that a student must have begun attending classes. In addition, the Secretary is amending the GSL Program regulations separately to make the rules with regard to the release of GSL funds to a student similar to the rules governing the release of funds under the Pell Grant and campus-based programs.

Comment: Several commenters noted that the registration requirements at some institutions might include the payment of tuition and fees. Under the proposed definition of "enrolled," a student could not receive a GSL until the registration requirements were completed and thus would

be prevented from using the GSL to pay his or her tuition and fee charges.

Response: A change has been made. The Secretary has amended the definition of "enrolled" to clarify that a student need not have paid tuition and fees at the institution to be considered enrolled at that institution.

Academic year

Comment: Several commenters asked whether the definition of "academic year" would be correct for GSL/PLUS purposes for correspondence schools or whether a separate definition is needed since the GSL/PLUS regulations define an academic year for programs of correspondence study as 18 months.

Response: No change has been made. The Secretary has concluded that a separate academic year definition for GSL recipients enrolled in programs of correspondence study is no longer necessary. However, the Secretary is amending the GSL regulations separately to specify the duration of eligibility for students enrolled in programs of correspondence study.

One year training program

Comment: Several commenters questioned the validity of equating 900 clock hours with 24 semester hours.

Response: No change has been made. The Secretary believes that 900 clock hours is the appropriate equivalent to two semesters, two trimesters, or three quarters. The 900 clock hours equivalent was calculated in the following manner: A one year program was considered to be one academic year of approximately nine months, or 36 weeks, in length. A full-time student in a clock-hour program is considered full-time if he or she takes 25 clock hours per week. Nine hundred hours is the product of multiplying 25 x 36. The definition of a full-time student in a clock-hour institution was changed from 25 hours to 24 hours so that the definition of a half-time student would include attendance for 12 rather than 12½ hours.

Parent

Comment: Two commenters felt that the definition of parent should include a stepparent. These commenters mistakenly thought that the Pell Grant regulations included a stepparent in the definition of a parent.

Response: No change has been made. This definition is not a change from the previous regulation nor is it different from the definition of parent in § 690.32 of the Pell Grant Program regulations, 34 CFR 690.32. A parent in the Pell Grant Program regulations, as well as in these regulations, includes the student's natural mother or father, or adoptive mother or father. A parent also includes a legal guardian who has been appointed by a court and who is specifically required by the court to use his or her own resources to support the student. A stepparent is not considered to be a parent under this definition, because a stepparent is not presumed to have the same responsibility to support the student as a natural or adoptive parent. However, § 690.33 of the Pell Grant Program regulations specifies that the income of a stepparent must be included in the assessment of annual adjusted family income under certain circumstances.

Regular Student

Comment: Several commenters asked whether a student admitted on a provisional, conditional, or probational basis is considered a regular student.

Response: No change has been made. A regular student is one who enrolls or is accepted for enrollment at an institution for the purpose of obtaining a degree or certificate at that institution. It is irrelevant whether the student is admitted on a provisional, conditional, or probational basis.

Section 668.3(c)–Public or private nonprofit institution of higher education.

Section 668.4(c)—Proprietary institution of higher education.

Section 668.5(c)—Postsecondary vocational institution.

Section 668.6(c)—Vocational school.

Ability to benefit

Comment: Several commenters were unclear as to whether an institution must document the ability to benefit of each student that it admits without a high school diploma or its equivalent, or whether it need only document the ability to benefit of those students who receive Federal student financial aid.

Response: No change has been made. This is an institutional eligibility requirement, as well as a student aid requirement. Therefore, an institution must document the ability to benefit of each regular student it admits on the basis of its ability to benefit standards, not just those who are receiving Federal student financial aid.

Proprietary institution of higher education and postsecondary vocational institution

Comment: One commenter felt that the definition of "proprietary institution of higher education" was not compatible with any definition of "higher education," because higher education should lead to a degree or certificate. Another commenter expressed the opinion that the definition of a "postsecondary vocational institution" should include proprietary institution.

Response: No change has been made. The four definitions of institutions are statutory and cannot be changed.

Vocational School

Comment: One commenter expressed concern that the use of credit hours to define the minimum program length for a vocational school would encourage institutions that use clock hours to convert to a disproportionately greater number of credit hours in order to make their students eligible for GSL.

Response: No change has been made. The definition of vocational school sets a minimum program length in terms of credit as well as clock hours to ensure that students enrolled in credit-hour programs are measured by the same standard of eligibility as students enrolled in clock-hour programs. For a credit-hour program, eight semester hours or 12 quarter hours is the equivalent of 300 clock hours with respect to the definition of an academic year, which has a minimum length of 24 semester hours, 36 quarter hours, or 900 clock hours.

Comment: Another commenter asked if the regulations imply that for vocational schools one quarter credit is the equivalent of 25 clock hours or that one semester credit is the equivalent to 37.5 clock hours.

Response: No change has been made. The minimum program lengths for vocational schools are based on the regulatory definition of an academic year, not on a comparison of credit and clock hours.

Section 668.7—Definition of an independent student.

Comment: Several commenters suggested that the criteria used to determine if a student is independent should be expanded to include the first calendar year of the award year and the two preceding calendar years, instead of just the first preceding calendar year. One commenter stated that married and unmarried students should have the same definition for self-support. One commenter suggested that "relevant dependency years" should be defined as the first calendar year of the award year and the three preceding calendar years.

Response: No change has been made. The Education Amendments of 1984 (Pub. L. 98–511) mandate that the criteria for determination of independent student status for academic years 1985–1986 and 1986–1987 be the same criteria as those in effect for academic year 1984–1985.

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H.R. 2946/Pub. L. 99-650

District of Columbia Jury System Act. (Nov. 14, 1986; 7 pages) Price: $1.00

H.R. 3004/Pub. L. 99-651

To amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes. (Nov. 14, 1986; 8 pages) Price: $1.00

H.R. 4378/Pub. L. 99-652

To provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes. (Nov. 14, 1986; 5 pages) Price: $1.00

H.R. 4444/Pub. L. 99-653

Immigration and Nationality Act Amendments of 1986. (Nov. 14, 1986; 5 pages) Price: $1.00

H.R. 4745/Pub. L. 99-654

Sexual Abuse Act of 1986. (Nov. 14, 1986; 5 pages) Price: $1.00

H.R. 5028/Pub. L. 99-655

Entitled the "Lower Colorado Water Supply Act." (Nov. 14, 1986; 3 pages) Price: $1.00

H.R. 5363/Pub. L. 99-656

To amend the interest provisions of the Declaration of Taking Act. (Nov. 14, 1986; 2 pages) Price: $1.00

H.R. 5674/Pub. L. 99-657

Judicial Housekeeping Act of 1986. (Nov. 14, 1986; 2 pages) Price: $1.00

H.J. Res. 626/Pub. L. 99-658

To approve the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes. (Nov. 14, 1986; 34 pages) Price: $1.25

S. 991/Pub. L. 99-659

To amend certain provisions of the law regarding the fisheries of the United States, and for other purposes. (Nov. 14, 1986; 37 pages) Price: $1.25

S. 1744/Pub. L. 99-660

To require States to develop, establish, and implement State comprehensive mental health plans. (Nov. 14, 1986; 73 pages) Price: $2.25

S. 2638/Pub. L. 99-661

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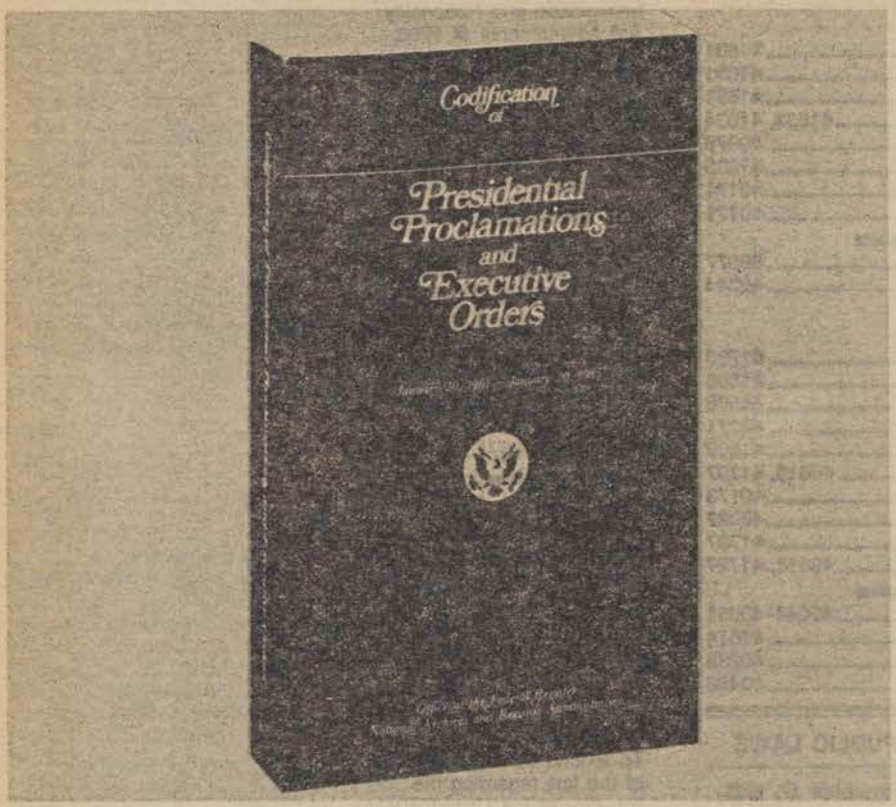

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