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Briefings on How To Use the Federal Register—
For information on briefings in Chicago, IL, and Boston, MA, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

CHICAGO, IL

WHEN: July 8, at 9 a.m.
WHERE: Room 204A,
Everett McKinley Dirksen Federal Building,
219 S. Dearborn Street,
Chicago, IL.
RESERVATIONS: Call the Chicago Federal Information Center, 312-353-0339.

BOSTON, MA

WHEN: July 15, at 9 a.m.
WHERE: Main Auditorium, Federal Building,
10 Causeway Street,
Boston, MA.
RESERVATIONS: Call the Boston Federal Information Center, 617-565-8129

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Presidential Documents

Title 3—

The President

Proclamation 5665 of June 8, 1987

750th Anniversary of Berlin, 1987

By the President of the United States of America

A Proclamation

Berlin, one of the world's great cities and the largest German city, this year observes its 750th anniversary. This is cause for celebration for Berliners and for all Germans, and also for the people of the United States and the rest of the world.

The history and character of Berlin and its people give powerful testimony about human nature and its capabilities. After three-quarters of a millennium and many shocks and reversals through the ages, Berlin is yet a young city—young with all the capacity of the human spirit to renew itself, to strive and to seek, to build anew and create, and, most of all, to hope. Time and again, Berlin has overcome desolation and isolation with will, energy, and courage. Even now, its spirit towers over the wall that presently divides the city.

Today Berlin remains close to the spiritual center of the Western world. Americans have a special affinity for Berlin that goes beyond formal political or economic ties, because we feel a kinship with its spirit of strength and creativity and because we see our own hopes and ideals mirrored in the deep attachment of its people to freedom and its blessings. Thousands of Americans—scholars, service men and women and their families, business people, diplomatic personnel, and so on—live in Berlin and make vital contributions to the life of the city. We have helped Berlin grow, and we have shared its spirit.

As we near the end of the 20th century, we see that Berlin, though ancient, is a city of the future. We know that the courageous and freedom-loving spirit that has guided so much of Berlin's past will help ensure a future of freedom for all mankind in the years to come. "*Berlin bleibt doch Berlin*—Berlin is still Berlin."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby recognize Berlin's 750th Anniversary, 1987. I call upon the people of the United States to join in celebrating and honoring Berlin's 750th anniversary with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 87-13913
Filed 6-15-87; 3:26 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5666 of June 10, 1987

300th Commencement Exercise at the Ohio State University

By the President of the United States of America

A Proclamation

On June 12, 1987, the Ohio State University will observe its 300th Commencement Exercise since it opened in September 1873 as the Ohio Agricultural and Mechanical College, a land-grant college for the Buckeye State under the Morrill Act of 1862. Today Ohio State has more than 50,000 students and its large body of alumni makes outstanding contributions in every area of endeavor in Ohio and throughout our country and the world.

The tradition of excellence in higher education at the Ohio State University enriches our Nation. We can all share in and celebrate Ohio State's theme for its 300th Commencement, "A Distinguished Past, a Dynamic Future."

The Congress, by House Joint Resolution 280, has designated June 12, 1987, as a day of observation of the occasion of the 300th Commencement Exercise at the Ohio State University and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim June 12, 1987, as a day of observation of the occasion of the 300th Commencement Exercise at the Ohio State University. I call upon all Americans to observe this occasion with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 87-13914
Filed 6-15-87; 3:27 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5667 of June 13, 1987

Baltic Freedom Day, 1987

By the President of the United States of America

A Proclamation

Historians of the 20th century will chronicle many a tragedy for mankind—world wars, the rise of Communist and Nazi totalitarianism, genocide, military occupation, mass deportations, attempts to destroy cultural and ethnic heritage, and denials of human rights and especially freedom of worship and freedom of conscience. The historians will also record that every one of these tragedies befell the brave citizens of the illegally occupied Republics of Estonia, Latvia, and Lithuania. Each year, on Baltic Freedom Day, we pause to express our heartfelt solidarity with these courageous people who continue to prove that, despite all, their spirit remains free and unconquered.

On June 14, 1940, the Soviet Union, in contravention of international law and with the collusion of the Nazis under the infamous Ribbentrop-Molotov Non-Aggression Pact, invaded the three independent Baltic Republics. The imprisonment, deportation, and murder of close to 100,000 Baltic people followed. Later, during the Nazi-Soviet war, the Nazis attacked through the Baltic nations and established a Gestapo-run civil administration. By the end of World War II, the Baltic states had lost 20 percent of their population; and between 1944 and 1949, some 600,000 people were deported to Siberia.

Totalitarian persecution of the Balts, this time once again under Communism, has continued ever since. While enduring decades of Soviet repression and ruthless disregard for human rights, the Baltic people have continued their noble and peaceful quest for independence, liberty, and human dignity.

This year marks the 65th anniversary of the *de jure* recognition by the United States of the Baltic Republics. The United States Government has never recognized, nor will we, the Soviet Union's illegal and forcible incorporation of the Baltic states. The United States staunchly defends the right of Lithuania, Latvia, and Estonia to exist as independent countries. We will continue to use every opportunity to impress upon the Soviet Union our support for the Baltic nations' right to national independence and to their right to again determine their own destiny free of foreign domination.

Observance of Baltic Freedom Day is vital for everyone who cherishes freedom and the inalienable rights God grants to all men alike; who recognizes that regimes denying those rights are illegitimate; who sees, shares, and salutes the Baltic peoples' hope, endurance, and love of liberty.

The Congress of the United States, by Senate Joint Resolution 5, has designated June 14, 1987, as "Baltic Freedom Day" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim June 14, 1987, as Baltic Freedom Day. I call upon the people of the United States to observe this day with appropriate remembrances and ceremonies and to reaffirm their commitment to the principles of liberty and self-determination for all peoples.

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

Ronald Reagan

[FR Doc. 87-13944
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Rules and Regulations

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 843

Federal Employees Retirement System; Death Benefits and Employee Refunds

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting its interim rules to implement the death benefit and employee refunds provisions of the Federal Employees Retirement System (FERS) Act of 1986. These rules regulate payments of refunds to separated employees and death benefits to survivors of employees, separated employees, and retirees. These rules also regulate the application and eligibility requirements for receiving these benefits.

EFFECTIVE DATE: July 17, 1987.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 632–4682.

SUPPLEMENTARY INFORMATION: The FERS Act of 1986, Pub. L. 99–335, created a new retirement system for Federal employees. On January 16, 1987, OPM published and requested comments on interim rules (52 FR 2071) to implement the death benefits and employee refund provisions of FERS. Although no comments were received on these rules, clarifying changes are being made for precision.

Several sections have been amended to replace statutory references with their corresponding regulatory references. The statutory references were included in the interim rule because the corresponding regulation had not been promulgated when we issued the interim rule.

Telephone inquiries demonstrated confusion over whether the basic employee death benefit could be paid to a spouse who failed to meet the marriage duration requirements. Such a spouse does not meet the statutory definition of widow or widower. Sections 843.309(a) and 843.303(a) have been amended to eliminate any confusion.

During the first 3 months after FERS became effective, we received 40 claims for death benefits. These early cases exposed a need to address what happens to the unexpended balance (i.e., the employee's contributions) when a child is entitled to a survivor annuity but the amount of annuity payable is zero because of the offset for social security benefits. This issue was not addressed in the interim rules.

Section 843.211 clarifies that a child eligible for a survivor annuity generally prevents payment of the unexpended balance, even if no payments to the child are being made. This result is required by statute and is consistent with long-established CSRS practice.

Section 8443 of title 5, United States Code, sets the amount of children's survivor annuities as the amount that the children would have received under CSRS minus any social security child survivor benefits for which the children are eligible. Usually, when the children are eligible for social security benefits, those benefits will exceed the CSRS benefit, reducing the FERS benefit to zero as long as the social security eligibility continues. However, in many (probably most) cases, a non-zero FERS benefit will become payable when the child loses social security eligibility but continues FERS eligibility, principally in "adult student" situations.

Section 8424 (e) and (f) of title 5, United States Code, provides that the lump-sum credit will be paid if the employee dies without a survivor eligible for an annuity or all survivor annuity rights have terminated. The conditions causing termination of survivor annuity rights do not include situations in which the annuity is reduced to zero because of receipt of offsetting social security benefits.

We recognize that this approach can delay payment of the unexpended balance for many years. However, we believe that prudence as well as the underlying statute require that the unexpended balance not be paid until the last child's entitlement terminates in accordance with 5 CFR § 843.408(b). The unexpended balance will continue to earn market interest during this period.

The exception to this rule on payment of the unexpended balance will be cases involving disabled children over age 23. Considering that the FERS definition of disabled is the same as the social security definition, both benefits will continue or both will terminate together. Since no reasonable expectation of a non-zero FERS benefit exists we will pay the unexpended balance in these cases.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect retirement payments to retired Government employees, spouses, and former spouses.

List of Subjects in 5 CFR Part 843

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Law enforcement officers, Pensions, Retirement.

Office Of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM is adopting its interim rule (Part 843 death benefits) published at 52 FR 2071 on January 16, 1987, as final with the following changes:

PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH BENEFITS AND EMPLOYEE REFUNDS

1. An authority citation for Part 843 is added as set forth below, and all subpart authorities are removed:

Authority: 5 U.S.C. 8461; Sections 843.205, 843.208, and 843.209 also issued under 5 U.S.C. 8424; Section 843.309 also issued under 5 U.S.C. 8442; Section 843.406 also issued under 5 U.S.C. 8441.

Subpart B—One-time Payments

2. Section 843.211 is added to read as follows:

§ 843.211 Determining when children prevent payment of the unexpended balance.

Someone entitled to an annuity for purposes of §§ 843.203 and 843.204 includes a child, even if the amount of the child's annuity is zero because the amount of the social security child survivor benefits exceeds the child survivor benefits payable under CSRS, unless—

(a) The child's annuity entitlement has terminated under § 843.408(b); or

(b) The child is—

(1) A disabled child under § 843.407,

(2) At least age 23, and

(3) Entitled to social security child survivor benefits in an amount that equals or exceeds the amount of the child survivor benefits payable under CSRS.

3. In § 843.303, the introductory language of paragraph (a) is revised to read as follows:

§ 843.303 Marriage duration requirements.

(a) The current spouse of a retiree, an employee, or a separated employee can qualify for a current spouse annuity or the basic employee death benefit only if—

* * * * *

4. In § 843.309, the introductory language in paragraph (a) is revised to read as follows:

§ 843.309 Basic employee death benefit.

(a) Except as provided in § 843.312, if an employee or Member dies after completing at least 18 months of civilian service creditable under Subpart C of Part 842 of this chapter and is survived by a current spouse who meets the requirements of § 843.303, the current spouse is entitled to the basic employee death benefit equal to the sum of—

* * * * *

§§ 843.306, 843.307, 843.310, 843.311 [Amended]

5. In the listing below, for each section indicated in the left column, remove the reference indicated in the middle column from the section cited, and add the reference indicated in the right column in its place:

Section	Remove	Add
Intro text of 843.306(a)	Section 8415 of title 5, United States Code.	Subpart D of Part 842 of this chapter.
843.307(a)	Section 8452 of title 5, United States Code, (disability annuitant).	Part 844 of this chapter.
843.307(b)(1)	Subchapter IV of chapter 84, United States Code.	Part 844 of this chapter.
Do	Section 8452(a)(2) of title 5, United States Code	§ 844.302(b)(2) or (c)(2) of this chapter.
843.307(b)(2)	Section 8452 of title 5, United States Code	§ 844.303 of this chapter.
Do	Section 8452 of title 5, United States Code	§ 844.303(a) of this chapter.
843.310	Section 8415 of title 5, United States Code	Subpart D of Part 842 of this chapter.
Intro text of 843.311(a)	An deferred annuity under section 8413 of title 5, United States Code.	A deferred annuity under § 842.212 of this chapter.
843.311(b)	Section 8415 of title 5, United States Code	Subpart D of Part 842 of this chapter.

[FR Doc. 87-13751 Filed 6-16-87; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 845

Federal Employees Retirement System; Debt Collection

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting its interim rules to provide for recovery of debts due the United States from benefits payable under the Federal Employees Retirement System (FERS) Act of 1986. These rules provide the procedures that OPM must follow in collecting debts from FERS benefits and the standards for waiver of overpayments made under FERS.

EFFECTIVE DATE: July 17, 1987.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202)-632-5560.

SUPPLEMENTARY INFORMATION: The FERS Act of 1986, Pub. L. 99-335, created a new retirement system for Federal employees. On February 27, 1987, OPM published 52 FR 5931 and requested comments on interim rules to provide procedures for the collection of debts due the United States from FERS basic benefits and standards for waiver of overpayments made in connection with these benefits. These procedures comply with the Debt Collection Act of 1982, Pub. L. 97-365, the revised Federal Claims Collection Standards, 4 CFR 101.1 *et. seq.*, 49 FR 8889, March 9, 1984, and related Federal court decisions. These rules state the procedures for collection and the standards for waiver as they apply to basic benefits payable under the FERS Act of 1986.

Only one comment was received. The commentor suggested that the 30-day time period for requesting reconsideration of a debt run from the date the notice is received rather than the date of the notice. The suggestion is impractical given the difficulties that would be associated with documenting receipt date, especially in view of existing provisions for extending the time period.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect Federal agencies and retirement payments to retired Government employees.

List of Subjects in 5 CFR Part 845

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM is adopting its interim rules published on February 27, 1987, at 52 FR 5931 as final rules with the following changes:

PART 845—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEBT COLLECTION

1. An authority citation for Part 845 is added to read as follows:

Authority: 5 U.S.C. 8461.

2. The authorities following all subpart headings are removed.

[FR Doc. 87-13752 Filed 6-16-87; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 918, 948, and 953

Expenses and Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes assessment rates under Marketing Orders 918, 948 Area III, and 953 for the

1987–88 fiscal period. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATES: March 1, 1987–February 29, 1988 (§ 918.224); July 1, 1987–June 30, 1988 (§ 948.229); June 1, 1987–May 31, 1988 (§ 953.224).

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250–1400, telephone (202) 475–3914.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (the Act, 7 U.S.C. 601–674), and rules promulgated thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are an estimated 18 handlers of Georgia peaches, 19 handlers of Colorado Area III potatoes, and 50 handlers of Southeastern Potatoes who will be subject to regulation under these marketing orders during the course of the repective season for each specified commodity. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers are believed to be classified as small entities.

Pursuant to the requirements set forth in the RFA, the Administrator of the Agricultural Marketing Service has considered the economic impact on small entities. Each marketing order requires that the assessment rate for a particular fiscal period shall apply to all assessable commodities handled from the beginning of each period. An annual budget of expenses is prepared by each administrative committee and submitted to the Department of Agriculture for approval. The members of administrative committees are handlers and/or producers of the regulated commodities. This is appropriate because they are familiar with the committees' needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget. Budgets are formulated and discussed in public meetings, thus all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by each committee is a derived figure. It is merely applying a rate per unit of the commodity (e.g. per pound, ton, box, carton, etc.), to the estimated production in order to produce income sufficient to pay the committees' expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committees shortly before a season starts and expenses are incurred on a continuous basis, therefore budget and assessment rate approval must be expedited in order that the committees will have funds to pay their expenses.

While this action may impose some additional costs on handlers, including small entities, the costs are in the form of uniform assessments on all handlers which do not impose a significant economic impact on the small entities involved.

Based on the foregoing, the Secretary finds that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and to engage in public rulemaking procedure with repect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is found that the specified expenses and assessment rates will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Parts 918, 948, and 953

Marketing agreements and orders, Peaches (Georgia), Potatoes (Colorado, Virginia, and North Carolina).

For the reasons set forth in the preamble, 7 CFR Parts 918, 948, and 953 are amended as follows:

1. The authority citation for 7 CFR Parts 918, 948, and 953 continues to read as follows:

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

2. New §§ 918.224, 948.299, and 953.224 are added to read as follows (the following sections prescribe the annual expenses and assessment rates and will not be published in the Code of Federal Regulations):

PART 918—FRESH PEACHES GROWN IN GEORGIA

§ 918.224 Expenses and assessment rate.

Expenses of $12,660 by the Industry Committee are authorized, and an assessment rate of $0.01 per bushel of peaches is established for the fiscal period ending February 29, 1988. Unexpended funds may be carried over as a reserve.

PART 948—IRISH POTATOES GROWN IN COLORADO

§ 948.299 Expenses and assessment rate.

Expenses of $3,662.10 by the Colorado Potato Administrative Committee Area III are authorized, and an assessment rate of $0.002 per hundredweight of potatoes is established for the fiscal period ending June 30, 1988. Unexpended funds may be carried over as a reserve.

PART 953—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

§ 953.244 Expenses and assessment rate.

Expenses of $10,000 by the Southeastern Potato Committee are authorized and an assessment rate of $0.005 per hundredweight of potatoes is established for the fiscal period ending May 31, 1988. Unexpended funds may be carried over as a reserve.

Dated: June 11, 1987.

Ronald L. Cioffi,

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

[FR Doc. 87–13780 Filed 6–16–87; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 87–049]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of Arkansas from Class C to Class B. This action is necessary because we have determined that Arkansas meets the standards for Class

B status. The effect of this action relieves certain restrictions on the interstate movement of cattle from Arkansas.

EFFECTIVE DATE: June 17, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Jan D. Huber, Domestic Programs Support Staff, VS, APHIS, USDA, Room 812, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–5965.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the Federal Register and effective January 15, 1987 (52 FR 1623–1625, Docket Number 86–123), we amended the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of Arkansas from Class C to Class B. We did not receive any comments, which were required to be filed on or before March 16, 1987. The facts presented in the interim rule still provide a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule". Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Arkansas reduces certain testing and other requirements on the interstate movement of these cattle. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by the changes in status. Also, cattle from certified brucellosis-free herds moving interstate are not affected by this change in status. We have determined that the change in brucellosis status made by this document will not affect market patterns and will not have a significant economic impact on those persons affected by this document.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

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

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule without change, the interim rule that amended 9 CFR Part 78 and that was published at 52 FR 1623–1625 on January 15, 1987.

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 12th day of June, 1987.

J.K. Atwell,

Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87–13814 Filed 6–16–87; 8:45 am]

BILLING CODE 3410–34–M

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 86–001F]

Addition of Great Britain to the List of Countries Eligible for Importation of Poultry Products into the United States

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service is amending the poultry products inspection regulations by adding Great Britain to the list of countries from which poultry or poultry products of chickens, turkeys, ducks, geese and guineas are eligible to be imported into the United States. Reviews of Great Britain's laws, regulations and other materials, and on-site reviews of its inspection system indicate that the system is acceptable pursuant to the Poultry Products Inspection Act and regulations thereunder. Seventeen comments were received in response to the proposal. After careful consideration of the comments received and other available information, FSIS is adopting the proposal as published. This action will enable poultry and poultry products from certified establishments in Great Britain to be imported into the United States.

EFFECTIVE DATE: July 17, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. William Havlik, Director, Foreign Programs Division, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC. 20250, (202) 447–2644.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined in accordance with Executive Order 12291 that this rule is not a "major rule." It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and it will not have a significant effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The rule adds Great Britain as a country from which poultry products are eligible to be imported into the United States. However, it has been estimated that only approximately 500,000 pounds of poultry products will be imported annually. This amount represents only .011 percent of domestic production, based on fiscal year 1984 data.

Effect on Small Entities

The Administrator has determined that this rule would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96–354, because the amount of product estimated to be imported represents only .011 percent of domestic production, based on fiscal year 1984 data. Most of the products to be imported are gourmet or regional dishes, which are not made in the United States.

Background

Section 17 of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 466) prohibits the importation into the United

States of slaughtered poultry, or parts of products thereof, unless they are healthful, wholesome, fit for human food, not adulterated, and contain no dye, chemical, preservative, or ingredient which renders them unhealthful, unwholesome, adulterated, or unfit for human food and unless they also comply with rules and regulations made by the Secretary of Agriculture to ensure that imported poultry and poultry products comply with the standards provided for in the Act.

On December 23, 1985, Pub. L. 99–198, The Food Security Act of 1985, was enacted (hereinafter referred to as the 1985 Farm Bill), which amended section 17 of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 466). The primary purpose of the legislation was to require that foreign countries exporting or desiring to export poultry or poultry products to the United States implement a residue sampling and testing program at the point of slaughter for poultry and poultry products offered for importation into the United States. The legislation also provides that a foreign inspection system be "the same as" the United States inspection system before product can be imported. (SEE the section entitled "Comments on the Proposed Rule" for an indepth discussion of the amendments to the PPIA and FSIS' interpretation of them.) This legislation is comparable to an amendment to the Federal Meat Inspection Act (FMIA) provided by the Agriculture and Food Act of the 1981 (Pub. L. 97–98) that mandated residue and species verification testing for imported meat and meat products.

The regulations addressing imported poultry products are contained in 9 CFR Part 381, Subpart T (9 CFR 381.195 to 381.209). In these regulations, the Administrator has established procedures by which foreign countries desiring to export poultry or poultry products to the United States may become eligible to do so.

Section 381.196 of the poultry products inspection regulations (9 CFR 381.196) provides that a poultry inspection system maintained by a foreign country, with respect to establishments preparing products in that country for export to the United States, must ensure compliance of such establishments and their poultry products with requirements at least equal to all the provisions of the PPIA and the regulations that are applied to official establishments in the United States and their poultry products. In addition, for approval to export poultry and poultry products to the United States, the requirement that reliance can be placed on certificates required under the regulations from authorities in the country must also be met.

Before eligibility is granted, a complete evaluation of the country's inspection system is made by FSIS personnel. This evaluation consists of two processes—a document review and on-site reviews of system operations. The document review process involves a review of the laws, regulations, directives and other written materials used by the country to operate the inspection program. The process of comparing and evaluating each required point of the country's laws, regulations, directives and other materials is documented on compendiums. This process is a joint effort by foreign inspection officials and FSIS personnel. In many cases, the country seeking recognition must revise its regulations or publish special directives to achieve equivalency with United States requirements.

If the document review proves to be satisfactory, on-site reviews are scheduled using a multi-disciplinary team to evaluate all aspects of the country's program. When all requirements of the Poultry Products Inspection Act and poultry products inspection regulations are satisfied, the country is considered eligible by the Administrator to export poultry products to the United States.

Document Review

As part of the document review process, a country's laws are evaluated to assure, among other things, that they provide for inspection and certification of the wholesomeness of product intended for export to the United States; that there are adequate controls over ineligible product to prevent its export; and that the country has adequate controls to prevent persons convicted of wrongdoing from being connected with a firm exporting product to the United States.

A country's laws and regulations must impose requirements at least equal to those of the United States with respect to the following areas: (1) Ante-mortem inspection of poultry and post-mortem inspection of poultry carcasses and parts thereof; (2) official controls by the national government over plant construction, facilities and equipment; (3) direct and continuous supervision of slaugther activities and product preparation by competent, qualified inspection personnel employed, supervised and paid by the country's central government; (4) separation of operations in certified plants from those not certified; (5) maintenance of a single standard of inspection and sanitation throughout all certified establishments; (6) official controls over condemned products; (7) reinspection of boneless poultry; and (8) control over chemical and drug residues in poultry products prepared for export to the United States. (9 CFR 381.196).

Another part of the document review process involves an evaluation of a country's responses to questionnaires designed to cover major system functions to determine the risks to product wholesomeness. The information obtained through the questionnaires is grouped by seven product risk areas used to evaluate all inspection systems. These seven areas are: gross contamination, microscopic contamination, disease contamination, additive contamination, residue contamination, economic fraud (adulteration of product with inferior ingredients), and compliance (substitution of species, use of inedible and ineligible product). Questionnaire information is used to highlight those particular areas that require detailed evaluation during the on-site review.

On-site Reviews

The second process in assessing a country's equal to status, performed after the document review has proven to be satisfactory, is on-site reviews of aspects of the system including laboratories and support facilities, and individual plants within the country. On-site reviews are designed to further explore areas determined to require more detailed evaluation and are also undertaken to allow the FSIS review team to observe the system in its daily operation.

Great Britain-Review Results

After reviewing all of the documents submitted by Great Britain and evaluating the findings of the on-site reviews and the subsequent written assurances of government officials, the poultry inspection system of Great Britain has been judged by the Administrator of FSIS to be adequate to assure, with respect to certified establishments within Great Britain preparing product for export to the United States, compliance with requirements the same as those applicable to official establishments within the United States which prepare poultry products, and that reliance can be placed upon certificates required under the PPIA from authorities of Great Britain.

Comments on the Proposed Rule

FSIS received 17 comments in response to the proposal: 8 from industry members, 5 from trade

associations, 2 from private citizens and 2 from members of Congress. None of the commenters supported the proposal. The following are the issues raised by the commenters and FSIS' response to each.

Comment:

Ten commenters argued that Great Britain's inspection system is not the same as the inspection system of the United States, as mandated by the Food Security Act of 1985. Two of these commenters did not reference the Act but used the language "are not under the same inspection requirements" or "failing to meet the same standards" in their comments.

Response:

The Food Security Act of 1985, enacted on December 23, 1985, amended section 17 of the Poultry Products Inspection Act (PPIA). A new subsection (d) was added to the PPIA that requires all poultry or poultry products offered for importation to "be subject to the *same* inspection, sanitary, quality, species verification, and residue standards applied to products produced in the United States; and * * * (be) processed in facilities and under conditions that are the *same* as those under which similar products are processed in the United States." (emphasis added). The primary purpose of the legislation was to add a provision to the PPIA that would require foreign countries currently exporting or desiring to export poultry or poultry products to the United States to develop and implement a program for the sampling and testing of residues. This new requirement would apply the requirements for residue testing that were specified in the Food and Agriculture Act of 1981 for imported meat products to imported poultry products.

As a result of the legislation, the PPIA now provides that a foreign inspection system be "the same as" the United States inspection system before product can be imported. This does not mean that all the regulations of a foreign country must be precisely, word for word, "the same as" those in the United States. If a requirement is narrow and specific (e.g., a product standard, maximum water intake level), it can be relatively easy to determine whether the foreign country's requirement is "the same as" ours. However, if our requirement if general and is applied on a case-by-case basis (e.g., facility requirements to preclude adulteration), the requirement can be met by a similarly general requirement. A general requirement permits variations within an established framework. FSIS applies "the same as" requirement by assessing whether the alternative procedures, even if they employ different inspectional techniques, produce the same end results. That is, the means of achieving products the same as ours in a foreign country will, in some respects, vary from the means employed in the United States. Interpretation of the law in this way provides the only reasonable basis for comparing inspection systems, since literal application of the term "the same as" would prohibit *all* imports of poultry products from foreign countries and would be nothing more than an artificial trade barrier. The USDA presently recognizes the poultry inspection systems in four countries (Canada, France, Israel and Hong Kong) and did so at the time of passage of the Food Security Act of 1985. Again, literal application of the term "the same as" would have required the USDA to withdraw its recognition of those countries' eligibility to ship poultry and poultry products to the United States. USDA does not believe it was the intent of Congress that such action be taken.

These foreign inspection systems have evolved in widely varying cultural and political environments under various animal health, public health and food production circumstances. This has resulted in a variety of specific procedures and processes used in maintaining national inspection controls. The quality of the finished product is what is important and decisive. Nonetheless, there are certain minimum features any system must have in order to be considered "the same as" ours. These basic requirements are currently in FSIS regulations. (9 CFR 381.196).

To be recognized by USDA as eligible to import poultry or poultry products into the United States, the foreign inspection system must be found to adhere to certain basic principles.

These principles include:

—Organization and administration of the inspection program by an agency of the national government providing standards the same as those of the United States with respect to:

- Control and supervision by the national government over the official activities of all employees or licensees;
- Assignment of competent, qualified inspectors;
- Authority and responsibility of national government officials to enforce the laws and regulations and to certify or refuse to certify poultry products intended for export.

In addition, the laws and regulations of the foreign country must impose requirements that are at least equal to those governing the United States' inspection system for the following provisions:

- Ante-mortem inspection of poultry for slaughter performed by veterinarians or by employees/licensees under the direct supervision of a veterinarian;
- Post-mortem inspection of carcasses and parts of carcasses at the time of slaughter performed by veterinarians or other employees/licensees under the direct supervision of a veterinarian;
- Official control by the national government over establishment construction, facilities and equipment;
- Direct and continuous official supervision of poultry slaughtering and processing by government inspectors to assure that adulterated or misbranded product is not prepared for export to the United States;
- Complete separation of establishments certified to export and those not certified and maintenance of a single standard of inspection and sanitation in certified establishments;
- Sanitary handing of poultry product;
- Official control over condemned material until it is destroyed or removed from the establishment;
- Other matters covered by the PPIA or the regulations thereunder.

FSIS has found these basic principles to be in place and operating in Great Britain's poultry inspection system. FSIS has also applied "the same as" test for the remaining USDA requirements, and FSIS has determined that the inspection system is "the same as" that of the United States.

Comment: Two commenters argued that the poultry inspection system of Great Britain is not even "at least equal to" that of the United States.

Response: As discussed in the proposed rule, FSIS bases its evaluation of a country's inspection system on many factors. During the document review, its laws, regulations and administrative edicts are compared on a point by point basis. Variations on certain standards are assessed to assure that they provide the same degree of effectiveness as United States standards. On-site reviews, performed after the document review proves to be satisfactory, are performed to further explore areas determined to require more detailed evaluation and are also undertaken to allow the FSIS review team to observe system in its daily operation. After reviewing all of the documents submitted by Great Britain

and evaluating the findings of the on-site reviews, FSIS has determined that Great Britain's poultry system is "the same as" that of the United States.

Comment: One commenter stated that the British system of inspection lacks substantial national government control in many respects and that the British system relies on local veterinarians and inspectors instead of national government employees to establish acceptable procedures and standards.

Response: The national government of Great Britain, through the Chief Veterinary Officer, Ministry of Agriculture, Food and Fisheries, conducts and supervises the national poultry inspection program. The program has an organizational structure similar to that of the United States national inspection program. Staff functions at the headquarters office include review and approval of plants, blueprints, equipment, facilities, construction and other matters. The Assistant Chief Veterinary Officer, analogous to FSIS's Deputy Administrator for Inspection Operations, is responsible for setting policy and for providing overall guidance in the operation of the inspection system. In addition, headquarters personnel design and approve curricula for use in training veterinarians and inspectors. (Inspectors are required to successfully complete a 2-year program at local technical colleges before appointment to inspector positions.) The next level of supervision, reporting to the headquarters staff, are the Regional and Divisional offices, similar to FSIS's regional and area offices, which are responsible for daily poultry inspection operations and other inspection related matters.

Veterinarians, stationed in individual plants, are appointed to their positions and are paid by the national government. The plant veterinarian supervises and is responsible for the poultry inspectors. The plant veterinarian's responsibilities also include assuring daily compliance with United States requirements and certifying product intended for export. This includes refusing to sign export certificates in the event product has not been prepared to United States standards. The line poultry inspectors are appointed and paid by local county health departments, but the routine inspection tasks are supervised by the veterinarian.

Comment: This commenter also noted that Great Britain's regulations do not require the level of labeling specificity as United States' regulations do.

Response: All labels to be affixed to any product intended for export to the United States must be approved by FSIS's Standards and Labeling Division (SLD) before they may be used, and therefore are subject to the same labeling requirements as domestic product. SLD requests detailed information on all product labels, including the listing of very specific processing procedures. The foreign inspector receives a copy of the label approval and is then able to fully monitor the product ingredients and procedures used to manufacture the product.

Comment: This commenter also noted that Great Britain does not require that poultry carcasses by analyzed to determine whether biological residues are present.

Response: Great Britain currently operates a residue testing program for a variety of food products including poultry, meat, milk and vegetables. The National Residue Surveillance and Export Monitoring Scheme can be characterized as a marketbasket sampling program with provisions for additional sampling if requested by importing countries. Meat and poultry samples are taken from carcasses and organs at slaughter as well as in the marketplace. The testing program includes the same groups of drugs and chemicals that are part of the United States testing program, such as pesticides and antibiotics including chloramphenicol, hormones and trace elements. Species testing is also performed.

Evaluation of information supplied by Great Britain and observations made during the on-site reviews of laboratories allowed FSIS chemists to conclude that adequate facilities and trained laboratory personnel are present. Further, the testing of tissues and organs for residues of interest to the United States is satisfactory. In cases where a specific chemical was not currently included in the testing program, laboratories satisfactorily demonstrated the capability to conduct the test.

Comment: Two commenters stated that Great Britain's regulations do not require a post-mortem inspection of each bird slaughtered.

Response: Great Britain's regulations governing inspection of poultry and poultry products, The Poultry Meat (Hygiene) Regulations 1976, require that all parts of each bird be inspected immediately after slaughter. This inspection includes, among other things, visual inspection of the slaughtered bird.

Comment: One commenter stated that Great Britain's regulations do not require poultry infected with tuberculosis to be condemned.

Response: The Poultry Meat (Hygiene) Regulations 1976, classify "tuberculosis" as an infectious disease; all birds affected with an infectious disease must be condemned.

Comment: One commenter stated that Great Britain's regulations do not contain specific provisions for disposing of condemned poultry products.

Response: The Meat (Sterilization and Staining) Regulations 1982 provide extensive requirements for the denaturing (staining with black coloring agent) or sterilizing (boiling or steam treatment, dry-rendering or other form of treatment which results in a non-raw appearance) of condemned poultry; they also provide regulations concerning the sale, transport, storage and packaging of such poultry.

Comment: Two commenters cited additional specific examples of inspection program areas where, they assert, significant differences exist between the two inspection systems. Examples of alleged deficiencies in Great Britain's poultry inspection program ranged from time/temperature requirements for the chilling of poultry carcasses to the approval and use of nonfood compounds in poultry plants.

Response: To meet an importing country's inspection requirements which may be different or nonexistent in the exporting country, an informal system of assurances is used by those countries exporting product to demonstrate compliance with the requirements of importing countries. Under such a system, when an exporting country receives clarification about an existing requirement or information about a new requirement of the importing country, it provides immediate assurance via government-to-government statements by inspection officials that the requirement will be implemented in the exporting country. Subsequently, the assurance is usually replaced with an official document such as a directive or other means to inform its inspection force. For example, when United States officials receive a new or clarified requirement from an importing country, we provide that country with assurances that the requirement will be met when product is prepared for export to that country, even though it may not be required of United States' establishments producing for the domestic market. FSIS provides information to domestic field personnel about what the requirement is and eventually that information becomes an Agency directive. But during the time that it takes to issue a directive, the importing country accepts our product based on the assurances which have

been provided. The system of written assurances will also be in effect when Great Britain is preparing product for export to the United States. The assurances cover all the specific deficiencies noted by the commenters.

Comment: Nine commenters expressed concerns that can be grouped under the broad category of trade issues. Several commenters stated that EEC countries have excluded United States poultry products due to the presence of non-tariff trade barriers. Examples of these barriers include unreasonably strict requirements of United States plants, a 4-year ban on the import of fresh poultry from the United States because of the presence of non-exotic Newcastle disease (the disease is as prevalent in the EEC contries as in the United States), and government subsidy of poultry production. Commenters also expressed concern over the general United States trade deficit, as well as the recent agricultural trade deficit, and felt that allowing imports of poultry products would exacerbate both the general and agricultural trade deficits. Commenters also felt that adoption of the proposal would threaten the jobs and livelihoods of domestic grain farmers, poultry growers and poultry processors.

Response: FSIS appreciates the concerns of the commenters; however, under the Poultry Products Inspection Act, FSIS is only authorized to make a technical evaluation and determination concerning a foreign country's inspection system. FSIS has no jurisdiction and no authority to base its eligibility determination on factors other than the country's laws, regulations and information about public health controls. There are several other avenues to voice objections over unfair trade practices. The International Trade Administration of the Department of Commerce or the United States International Trade Commission, an independent agency, are empowered to investigate complaints and to seek redress concerning unfair trade practices and subsidies. The United States Trade Representative, located in the Executive Office of the President, is another avenue to voice objections about these matters.

Comment: One commenter stated that a statement in the proposal which indicated that FSIS was relying on "written assurances of government officials" was not adequate to assure that product imported into the United States was wholesome.

Response: The written assurances referred to were provided by officials in Great Britain in response to specific questions raised by FSIS reviewers concerning their inspection system. They were not general assurances that product was wholesome. However, FSIS must rely to some degree on these kinds of assurances just as other countries must rely on our assurances for the same kinds of matters as discussed above. Once "technical" equivalency of the system is determined, FSIS must have confidence that the system as a whole is *in fact* equivalent—that it is well-managed and operates in a manner that ensures, as does ours, that a wholesome finished product is the end result.

Comment: Three commenters stated that imported product should be required to meet our standards not just the standards of the foreign country.

Response: FSIS believes these commenters have misinterpreted the provisions of the PPIA and the requirements of the poultry products inspection regulations which specify eligibility criteria. The PPIA requires that a foreign country's inspection system must meet requirements that are "the same as" United States requirements. As stated earlier, certain principles must be adhered to and certain requirements must be met in every case.

It is not required, however, that a foreign country use the same inspection techniques as those used in the United States. In fact, the FSIS permits three forms of post-mortem inspection of broilers and cornish game hens—traditional inspection, the Streamlined Inspection System, and the New Line Speed inspection system. These systems were developed to meet the varying needs of the regulated industry and the Agency, while maintaining the same level of inspection.

Under each of these inspection systems, traditional inspection, the Streamlined Inspection System and the New Line Speed System, an inspector is required to make proper disposition by examining the whole carcass, including the external surfaces, the internal surfaces, and the viscera. These systems differ, however, in that under traditional inspection, one or more inspectors on the eviscerating line examine the whole carcass and verify that all trimmable defects are removed from the carcass before it leaves the inspection station. Under the Streamlined Inspection System, one or two inspectors on the eviscerating line examine the whole carcass and, if there are no defects that require condemnation, allow the bird to proceed down the line for independent trim by the establishment. Under the New Line Speed System, three inspectors on an eviscerating line examine every third carcass and, as in the Streamlined Inspection System, if there are no defects that require condemnation, allow the bird to proceed down the line for independent trim by the establishment. To operate under the New Line Speed System, however, establishments must maintain a partial quality control program which requires an establishment to monitor various critical control points along the evisceration line.

Although the three forms of inspection permitted by the FSIS differ somewhat, all three forms of inspection must produce product that is of the same quality, free from disease and contamination. Foreign countries must also be permitted to develop and implement other types of inspection, but these types of inspection must produce product of the same quality as that produced in the United States if they wish to export product to the United States.

Comment: One commenter stated that USDA's condition that only 500,000 pounds of product could be imported would open the door for more imports. Another commenter stated that USDA had set a limit of 500,000 pounds, but the commenter did not qualify the statement further.

Response: The 500,000 pound figure was only a rough estimate of anticipated poultry product imports from Great Britain for purposes of making a preliminary assessment of this proposal's potential effect on small businesses under the Regulatory Flexibility Act and the larger, national economy under Executive Order 12291. It is anticipated that actual pounds of product imported will vary from this figure.

After careful consideration of the comments received and of all other information available on this subject, the Administrator has determined that the proposed rule should be adopted as a final rule as published.

Accordingly, FSIS is amending section 381.196 of the poultry products inspection regulations (9 CFR 381.196) to add Great Britain to the list of countries from which poultry products maybe eligible for import into the United States.

Although a foreign country may be listed as approved for importation of poultry products, the poultry products of such foreign country must also comply with other Federal laws including restrictions under Title 9, Part 94 of the Animal and Plant Health Inspection Service's regulations (9 CFR 94 *et seq.*) relating to the importation of poultry and poultry products from foreign countries into the United States.

Final Rule

List of Subjects in 9 CFR Part 381 in Part 381

Imported products, Poultry.

PART 381—[AMENDED]

On the basis of the foregoing, the poultry products inspection regulations (Part 381) are amended as follows:

1. The authority citation for Part 381 continues to read as follows:

Authority: 71 Stat. 441, 82 Stat. 791, as amended, 21 U.S.C. 451 *et seq.*; 76 Stat. 663 (7 U.S.C. 450 *et seq.*), unless otherwise noted.

§ 381.196 [Amended]

2. Paragraph (b) of § 381.196 (9 CFR 381.196(b)) is amended by adding alphabetically between France and Hong Kong the following country to the list of countries from which poultry products from any domesticated birds, chickens, turkeys, ducks, geese, and guineas are eligible to be imported into the United States.

Great Britain

Done at Washington, D.C. on June 15, 1987.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 87-13940 Filed 6-16-87; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R-0595]

Bank Holding Companies and Change in Bank Control; Procedures Regarding Publication and Processing of Notices Filed Under the Change in Bank Control Act

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Federal Reserve Board is adopting a final rule that amends Subpart E of its Regulation Y, section 225 of Title 12, Code of Federal Regulations, to implement certain amendments to the Change in Bank Control Act ("CBCA") made by section 1360 of the Anti-Drug Abuse Act of 1986, Pub. L. 99-570. Under the final rule, notificants under the CBCA are required to publish, in a newspaper of general circulation in communities where the bank or bank holding company to be acquired is located, an announcement of the proposed acquisition no later than 10 calendar days after the notice has been accepted by the appropriate Federal Reserve Bank. The regulation provides an exception to the publication requirement where disclosure would threaten the safety or soundness of the bank to be acquired. In addition, publication may be delayed by the Board for good cause shown.

The final rule also authorizes the Board to extend the period of time it has to consider a CBCA notice for up to two additional periods of 45 days each.

Finally, as required by the Anti-Drug Abuse Act, the amended regulation states that the Board shall conduct an investigation of the competence, experience, integrity, and financial ability of each proposed acquiror and shall make an independent determination of the accuracy and completeness of the information submitted. A written report of the investigation will be prepared which will become part of the record.

The Board published a preliminary rule for public comment on February 4, 1987 (52 FR 3447) and is adopting that rule substantially as proposed. The public comment period expired on March 6, 1987.

DATE: Effective June 12, 1987.

FOR FURTHER INFORMATION CONTACT: J. Virgil Mattingly, Deputy General Counsel (202/452-3430), Scott G. Alvarez, Senior Counsel (202/452-3583), Legal Division; or Sidney Sussan, Assistant Director (202/452-2638), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired *only*, Telecommunications Service for the Deaf, Earnestine Hill or Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION:

Background

Under the CBCA, persons acting either individually or in concert to acquire control of any insured state member bank or bank holding company must provide the Board with 60 days prior written notice describing the proposed acquisition and containing certain information concerning the financial resources and background of the notificant. The transaction may proceed at the end of the 60-day period, unless the Board disapproves the transaction or extends the notice period. An acquisition may proceed prior to the expiration of the 60-day review period if the Board issues a written statement of its intent not to disapprove the transaction.

On October 27, 1986, the President signed into law the Anti-Drug Abuse Act of 1986, Pub. L. 99-570. Section 1360 of this Act (hereinafter the "1986 Amendment") makes several amendments to the CBCA that necessitate a revision in the Board's implementing regulations.

Prior to the 1986 Amendment, the CBCA did not require notice to, or solicitation of comments from, the public in connection with a notice filed under the CBCA. The Board's regulation provided that the Board or the appropriate Reserve Bank could solicit information or views from any person, including any bank or bank holding company involved in the notice, and any appropriate state, federal or foreign governmental authority. (See 12 CFR 225.43(d)).

The 1986 Amendment requires the Board to publish the name of each person filing under the CBCA to acquire an insured bank or bank holding company, and to solicit public comment on the proposed acquisition, in particular from persons in the geographic area where the bank to be acquired is located. This publication requirement may be waived only when the agency determines in writing that disclosure or solicitation of public comment would seriously threaten the safety or soundness of the bank or bank holding company to be acquired.

Regulations promulgated by both the Federal Deposit Insurance Corporation (12 CFR 303.4(b)) and the Office of the Comptroller of the Currency (12 CFR 5.50(h)) provide for the public disclosure and solicitation of comments by requiring the notificant to publish a disclosure statement in a newspaper serving the community where the head office of the bank to be acquired is located.

Summary of Issues

The Board published a proposed rule to implement the 1986 Amendment on February 4, 1987, (52 FR 3447) and invited public comment on this proposal until March 6, 1987. The Board received 33 comments regarding this proposal in response to its request for public comment.

Eight comments, including comments from four Reserve Banks, one regional bank holding company and three small banking organizations, noted that the proposed regulations were mandated by the 1986 Amendment to the CBCA and generally supported the Board's proposed implementation of those statutory requirements.

Twenty-four comments, representing primarily small banks and bank holding companies whose principal shareholders are frequently subject to the CBCA requirements, urged the Board not to adopt the proposed regulations requiring notificants to publish notice of a proposed acquisition. These commenters

argued that the publication requirements would impose added costs in bank acquirors and would further delay the regulatory approval process without, in the commenters view, contributing in any meaningful way to the identification of individuals involved in illegal activities. These commenters were also concerned that the publication requirement would permit third parties to interfere with the transfer of bank shares and argued that the added publicity surrounding bank stock acquisitions would dissuade competent individuals from purchasing shares of banks. Opponents of the publication process also argued that the current Board procedures for investigating the character, competence, experience and financial resources of prospective bank purchasers are adequate and that it is unlikely that additional relevant information will be obtained from the public.

The Board recognizes that requiring publication of CBCA notices imposes an added burden on notificants under the Act. The Board notes, however, that this publication requirement is mandated by the recently enacted 1986 Amendments to the CBCA. The Board has attempted to minimize the procedural burdens that are associated with these publication requirements by adopting a form of publication that is similar to the form of publication used under the Bank Holding Company Act, and by permitting notificants to publish during a reasonable period that begins before the time that a CBCA notice is filed. The Board has also adopted provisions designed to permit notificants to coordinate the timing of the publication under the CBCA with public filings under other statutes, including the state and federal securities laws. Moreover, the Board has adopted procedures that permit the Board to waive the publication requirement where delay or public disclosure would seriously threaten the safety or soundness of the bank to be acquired.

The Board also notes that, while the 1986 Amendments require that the public be provided an opportunity to comment on notices filed under the CBCA, the 1986 Amendments do not confer any other rights on third parties to participate in any other way in the consideration of a notice filed under the CBCA. The final rule adopted by the Board expressly recognizes this and provides that no person, other than a notificant, who submits information regarding a notice filed under the CBCA shall thereby be entitled to any standing or right to participate in the Board's consideration of a notice, or to appeal or otherwise contest the Board's action regarding a notice.

Summary of Final Rule

The final rule adopted by the Board is substantially similar to the rule proposed by the Board for comment. This rule is also similar to regulations previously adopted by the OCC and the FDIC. The final rule amends the Board's regulations to require that or persons seeking to acquire a bank or bank holding company pursuant to the CBCA to publish an announcement must of the proposed acquisition in a newspaper of general circulation in the community in which the head office of the state member bank or bank holding company to be acquired is located and, in the case of a bank holding company, in each community in which the head office of a bank subsidiary of the holding company is located.

The newspaper announcement must contain the name of each proposed acquiror, the percentage of shares to be acquired, the name of each bank or bank holding company to be acquired, and, in the case of a bank holding company, the names of each of its subsidiary banks. The announcement may contain additional information, including the percentage of shares already owned by notificants or other information deemed relevant by the notificants or the Board.

The announcement must also state that any person wishing to comment on the proposed acquisition may do so by submitting written comments to the appropriate Reserve Bank within 20 calendar days of publication or such shorter period of time as the Board may prescribe in a particular case. The announcement may be published no earlier than 10 calendar days before the CBCA notice is filed with the appropriate Reserve Bank and no later than 10 calendar days after the notice has been accepted by the Reserve Bank.

In addition to requiring newspaper publication by the notificant, the Board has determined to publish notice of filings made under the CBCA in the **Federal Register**. The **Federal Register** notice will contain the name of persons who propose to acquire control of a bank or bank holding company, the amount of shares to be acquired, and the names of all banks to be acquired, and will permit a minimum period of 15 calendar days for public comment, unless the Board determines that the public interest requires shortening or waiving this comment period. The **Federal Register** notice will be published upon submission to the Reserve Bank of the CBCA notice.

Under the final rule, the Board may dispense with public notice if it determines in writing that such publication and solicitation of comment would seriously threaten the safety and soundness of the bank or bank holding company to be acquired. Finally, the final rule expressly states that the publication requirement does not give any person standing to intervene in proceedings regarding the CBCA notice or to appeal or otherwise contest the Board's action regarding a notice.

Tender Offers

The Board notes that the FDIC and the OCC regulations provide that publication of a filing under the CBCA may be delayed for up to 34 days after the filing in the case of a proposed tender offer that requires notice under the CBCA and is simultaneously subject to the requirements of the Williams Act (15 U.S.C. 78m and 78n).[1]

The Board's final rule would permit the Board, in its discretion, to postpone, but not eliminate, the publication requirement under the CBCA for such period as the Board deems appropriate where an acquiring party requests such delay and confidential treatment of a CBCA notice and demonstrates good cause for the delay. The Board's final rule permits the Board to postpone publication for whatever period is deemed to be appropriate, and does not adopt the specific 34-day delay period adopted by the FDIC and the OCC.

Extension of Time for Disapproving Transactions

Prior to the 1986 Amendment, the CBCA authorized the appropriate federal banking agency to extend for up to 30 days the statutory period in which a proposed acquisition could be disapproved under the CBCA. The 1986 Amendment provides that, in addition to this 30-day extension, the appropriate agency may authorize two additional extensions of not more than 45 days each. In order to utilize this authority, the agency must determine that: (i) An acquiring party has not furnished all the information required under section 7(j)(6) of the CBCA (12 U.S.C. 1817(j)(6)); (ii) material information submitted is

[1] The tender offer regulations applicable to bank holding companies and to state member banks, 17 CFR 240.12(d) and 12 CFR 206.8, require that an offer remain open for at least 20 business days from the date the tender offer is first published, sent or given to security holders. Shares tendered or deposited pursuant to the offer may be withdrawn by a depositing shareholder at any time within the first 15 business days of the offering. 17 CFR 240.14(d)(7); 12 CFR 206.8(g). Under the CBCA, a bidder may not purchase shares deposited in response to a tender offer in amounts exceeding the CBCA limits until the expiration of the review period unless notified by the Board at an earlier time that the acquisition may commence.

substantially inaccurate; (iii) an investigation of an acquiring party has not been completed because of delay or inadequate cooperation by the acquiring party; or (iv) additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the currency transaction reporting requirements of the Bank Secrecy Act, Subchapter II of Chapter 53 of Title 31, United States Code.

The final rule amending § 225.43(c) of Regulation Y reflects this change in the CBCA. If the Board acts under this authority to extend the time for disapproval beyond the initial 30-day extension, the rule requires the Board to notify the acquiring party of the reasons for such extension, including a statement of any information that is determined by the Board to be incomplete, inadequate, or inaccurate.

Investigation and Report

The 1986 Amendment requires the appropriate agency to conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice under the CBCA as a person by or for whom such acquisition is to be made, and to make an independent determination of the accuracy and completeness of the information required by the CBCA to be submitted to the agency. The agency is then required to prepare a written report of such investigation, which is to become part of the record. The final rule amends § 225.43(d) of Regulation Y to reflect this change in the law.

Regulatory Flexibility Act

This final rule adopted by the Board implements specific statutory requirements recently imposed by the Anti-Drug Abuse Act of 1986. The CBCA generally requires persons seeking to acquire control of a bank or bank holding company to provide prior written notice to the appropriate federal banking agency, but imposes no requirements on the target bank or bank holding company itself. The requirement that persons seeking to acquire a bank or bank holding company under the CBCA publish notice of the proposed acquisition would likewise not impose any regulatory burden on banks or bank holding companies of any size that are the targets of a proposed change in control. The final rule would have the benefit, moreover, of providing such banks or bank holding companies with notice of a proposed acquisition of their shares under the CBCA and of permitting an opportunity for such banks, bank holding companies, and other interested persons to provide comment and information regarding the proposal to the Board. Thus, the final rule is not expected to have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The final rule adopted by the Board requires persons proposing to acquire a bank or bank holding company in a transaction subject to the CBCA to publish notice of the proposed transaction in a newspaper of general circulation in communities served by the target bank or bank holding company and to provide the Board with verification of such publication. No additional reporting requirements or modification to existing reporting requirements have been imposed by this rule.

List of Subjects in 12 CFR Part 225

Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements.

For the reasons set out in this notice, and pursuant to the Board's authority under section 13 of the Change in Bank Control Act (12 U.S.C. 1817(j)(13)), 12 CFR Part 225 is amended as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

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

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

2. Section 225.43(a) is revised to read as follows:

§ 225.43 Procedures for filing, processing, publishing, and acting on notices.

(a)(1) *Filing notice.* A notice required under this subpart shall be filed with the appropriate Reserve Bank and shall contain the information required by paragraph 6 of the Change in Bank Control Act (12 U.S.C. 1817(j)(6)), or prescribed in the designated Board form. With respect to personal financial statements required by paragraph 6(B) of the Change in Bank Control Act, an individual may include a statement of assets and liabilities as of a date within 90 days of filing the notice, a brief income summary, and a description of any subsequent material changes, subject to the authority of the Reserve Bank or the Board to require additional information.

(2) *Acceptance of notice.* The 60-day notice period specified in § 225.41 of this subpart shall commence on the date all required information is received by the appropriate Reserve Bank or the Board. The Reserve Bank shall notify the person or persons submitting a notice under this subpart of the date all such required information is received and the notice is accepted for processing.

(3) *Publication*—(i) *Newspaper announcement.* A person(s) filing a notice under this subpart shall publish, in a form prescribed by the Board, an announcement soliciting public comment on the proposed acquisition. The announcement shall be published in a newspaper of general circulation in the community in which the head office of the state member bank to be acquired is located or, in the case of a proposed acquisition of a bank holding company, in the community in which its head office is located and in the community in which the head office of each of its subsidiary banks is located. The announcement shall be published no earlier that 10 calendar days prior to the filing of the notice with the appropriate Reserve Bank and no later than 10 calendar days after acceptance and the publisher's affidavit of a publication shall be provided to the appropriate Reserve Bank.

(ii) *Contents of newspaper announcement.* The newspaper announcement shall state:

(A) The name of each person identified in the notice as a proposed acquiror of the bank or bank holding company and the percentage of shares proposed to be acquired;

(B) The name of the bank or bank holding company to be acquired, including, in the case of a bank holding company, the name of each of its subsidiary banks; and

(C) A statement that interested persons may submit comments on the notice to the Board or the appropriated Reserve Bank for a period of 20 days or such shorter period as may be provided pursuant to paragraph (a)(3)(v) of this section.

(iii) **Federal Register** announcement. The Board will, upon filing of a notice under this subpart, publish announcement in the **Federal Register** of receipt of the notice. The **Federal Register** announcement will contain the information required under paragraphs (a)(3)(ii)(A) and (a)(3)(ii)(B) of this section and a statement that interested persons may submit comments on the proposed acquisition for a period of 15 days or such shorter period as may be provided pursuant to paragraph (a)(3)(v) of this section. The Board may waive publication in the **Federal Register** if the Board determines that such action is appropriate.

(iv) *Delay of publication.* The Board may permit delay in the publication required under paragraphs (a)(3)(i) and (a)(3)(iii) if the Board determines, for good cause shown, that it is in the public interest to grant such a delay. Requests for delay of publication may be submitted to the appropriate Reserve Bank.

(v) *Shortening or waiving notice.* In circumstances requiring prompt action, the Board may shorten the public comment period required under this paragraph. The Board may also waive the newspaper publication and solicitation of public comment requirements of this paragraph, or it may act on a notice before the expiration of a public comment period, if it certifies in writing that disclosure of the notice, solicitation of public comment, or delay until expiration of the public comment period would seriously threaten the safety or soundness of the bank or bank holding company to be acquired.

(4) *Consideration of public comments.* In acting upon a notice filed under this subpart, the Board shall consider all public comments received in writing within the period specified in the newspaper or **Federal Register** announcement, whichever is later. At the Board's option, comments received after this period may, but need not, be considered.

(5) *Standing.* No person (other than the acquiring person) who submits comments or information on a notice filed under this subpart shall thereby become a party to the proceeding or acquire any standing or right to participate in the Board's consideration of the notice or to appeal or otherwise contest the notice or the Board's action regarding the notice.

* * * * *

3. Section 225.43(c)(2) is revised to read as follows:

* * * * *

(c) * * *

(2) *Extensions of time period.* (i) The Board may extend the 60-day period in paragraph (c)(1) of this section for an additional 30 days by notifying the acquiring person(s).

(ii) The Board may further extend the period during which it may disapprove a notice for two additional periods of not more than 45 days each if the Board determines that:

(A) Any acquiring person has not furnished all the information required under paragraph (a) of this section;

(B) Any material information submitted is substantially inaccurate;

(C) It is unable to complete the investigation of an acquiring person because of inadequate cooperation or delay by that person; or

(D) Additional time is needed to investigate and determine that no acquiring person has a record of failing to comply with the requirements of the Bank Secrecy Act, subchapter II of Chapter 53 of Title 31, United States Code.

(iii) If the Board extends the time period under this paragraph, it shall notify the acquiring person(s) of the reasons therefor and shall include a statement of the information, if any, deemed incomplete or inaccurate.

* * * * *

4. Section 225.43(d) is revised to read as follows:

* * * * *

(d)(1) *Investigation and report.* After receiving a notice under this subpart, the Board or the appropriate Reserve Bank shall conduct an investigation of the competence, experience, integrity, and financial ability of each person by and for whom an acquisition is to be made. The Board shall also make an independent determination of the accuracy and completeness of any information required to be contained in a notice under paragraph (a) of this section. In investigating any notice accepted under this subpart, the Board or Reserve Bank may solicit information or views from any person, including any bank or bank holding company involved in the notice, and any appropriate state, federal, or foreign governmental authority.

(2) The Board or the appropriate Reserve Bank shall prepare a written report of its investigation, which shall contain, at a minimum, a summary of the results of the investigation.

* * * * *

Board of Governors of the Federal Reserve System, June 11, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-13750 Filed 6-16-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. NM-24, Special Conditions No. 25-ANM-12]

Special Conditions; Airbus Industrie Model A310-300 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; Request for comments.

SUMMARY: These special conditions are issued pursuant to § 21.16 of the Federal Aviation Regulations (FAR) for the Airbus Industrie Model A310-300 airplane. This airplane will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards of Part 25 of the Federal Aviation Regulations (FAR). These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards of Part 25.

DATES: The effective date of these special conditions is June 9, 1987. Comments must be received on or before August 17, 1987.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket (ANM-7), Docket No. NM-24, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; or delivered in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked: Docket No. NM-24. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gregory J. Holt, Standardization Branch, Transport Standards Staff, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168; telephone (206) 431-1918.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective in less than 30 days; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments received will be available, both before and after the closing date for the comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the Docket. Persons wishing the FAA

to acknowledge receipt of their comments submitted in response to this request must submit with comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-24." The postcard will be date/time stamped and returned to the commenter.

Background

On February 7, 1984, Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, applied for an amendment to Type Certificate A35EU to add the new Model A310-300. The application was submitted through the Direction Generale de l'Aviation Civile (DGAC) to the FAA under the provisions of § 21.29 of the FAR and an existing bilateral airworthiness agreement with the government of France.

The bilateral agreement was reached in 1973 to facilitate French acceptance of aeronautical products exported from this country and reciprocal U.S. acceptance of such products imported from France. The bilateral agreement provides, in part, for U.S. acceptance of certification by the DGAC that the Model A310-300 complies with the applicable U.S. laws, regulations, and requirements or with the applicable French laws, regulations, and requirements, plus any additional requirements the U.S. finds necessary to ensure that the Model A310-300 meets a level of safety equivalent to that provided by the applicable U.S. laws, regulations, and requirements. The DGAC has elected to certify that the Model A310-300 complies with the U.S. laws, regulations, and requirements.

The applicable U.S. laws, regultions, and requirements for a change to a type certificate, such as the addition of the Model A310-300 to Type Certificate No. A35EU, are established under the provisions of § 21.101 of the FAR. As provided, an applicant for a change to a type certificate must comply with either the regulations incorporated by reference in the type certificate, i.e., the original certification basis, or with the applicable regulations in effect on the date of the application for the change. In addition, if the proposed change consists of a new design or a substantially complete redesign of a component, equipment installation, or system installation, and the regulations incorporated by reference do not provide adequate standards with respect to the proposed change, the applicant must comply with regulations in effect on the date of the application for the change, and special conditions established under the provisions of § 21.16 as necessary to provide a level of safety equal to that established by the regulations incorporated by reference.

Type Certification Basis

The type certification basis established under the provisions of § 21.101 for the Model A310-300 is as follows: Part 25 of the FAR as amended by Amendments 25-1 through 25-45 thereto, except: § 25.109 as amended by Amendment 25-21, § 25.365(e) (1) and (2) as amended by Amendment 25-54, § 25.631 as amendment by Amendment 25-21, § 25.733 as amended by Amendment 25-49, § 25.803 as amended by Amendment 25-46, § 25.809(f)(1)(iii) as amended by Amendment 25-47, and § 25.809(f)(1)(iv) and (v) as amended by Amendment 25-46; these special conditions; and certain noise and environmental requirements that are not pertinent.

A310-300 Design Features

General

The Model A310-300 presented for U.S. type certification is a long range derivative of the previously certified A310-200 with the same overall configuration. It will have a maximum takeoff weight of 330,695 lbs., nominal passenger seating of 222 mixed class, a range of approximately 4500 nautical miles with international reserves, and a maximum operating altitude of 41,100 ft.

The major design differences between the A310-300 and the A310-200 are structural changes to allow for increased design weights, a new horizontal stabilizer designed to serve also as a fuel trim tank, a center of gravity control system, a composite vertical fin, and a propulsion control system incorporating digital electronic components. The regulations incorporated by reference on the type certificate for the A310-300 include adequate airworthiness standards for all of these design differences, except the propulsion control system, for which these special conditions are established.

Lightning Protection

The regulations incorporated by reference include standards for protection from ignition of fuel vapor (§ 25.954) and from damage to the structure of the airplane by lightning (§ 25.581). These standards do not, however, provide the level of safety for the electronic propulsion control system that is inherently provided by traditional designs which utilize mechanical means to connect the engines to the flight deck.

The lightning current waveforms defined in Society of Automotive Engineers (SEA) AE4L Committee Report AE4L-87-3 dated February 4, 1987, along with the voltage waveforms in JAR ACJ-55 or Advisory Circular 20-53A, will provide a consistent and reasonable standard which is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. How these threats affect the airplane and its systems depends upon their installation configuration, materials, shielding, airplane geometry, etc. Therefore, under these special conditions, tests (including tests on the completed airplane or an adequate simulation) and/or a verified analysis must be conducted in order to determine the resultant internal threat to installed systems. The individual systems must then be evaluated with this internal threat in order to determine their susceptibility to upset and malfunction.

Protection from Unwanted Effects of Radio Frequency (RF) Energy.

Airplane designs which utilize metal skins and mechanical command and control means have traditionally been shown to be immune from the effects of RF energy from ground-based transmitters. With the trend toward increased power levels from these sources, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of the airplane to RF energy must be established. No universally accepted guidance to define the maximum energy level in which civilian airplane system installations must be capable of operating safely has been established.

At this time, the FAA and other airworthiness authorities are working to establish an agreed level of RF energy representative of that to which the airplane will be exposed in service. These special conditions require that the airplane be evaluated under an interim standard for the protection of the electronic engine control system and its associated wiring harness, exclusive of airframe shielding.

Propulsion Control System

The Propulsion Control System for the A310-300 with PW4000 engines is made up of: (1) A dual channel Full Authority Digital Electronic Control (FADEC) mounted on each engine's fan case; (2) an array of interfacing aircraft computers which provide data necessary for thrust management, data validation, and reversion modes; (3) power levers in the aisle stand; (4) the hydromechanical interfaces on the engines; (5) the power supplies; and (6) the interconnecting wiring. The

electronic components of this array that are directly associated with setting and controlling the thrust of each engine, while meeting the requirements of §§ 25.901 and 25.903, may not necessarily exhibit a level of system integrity that was envisioned under the original A310 certification basis. Although the software function contained in the engine's FADEC has been validated to a "critical" level during the engine certification program, Part 25 contains no specific requirements for evaluating the design integrity of the FADEC and the overall control system, as installed in the airplane. Unlike conventional hydromechanical controls, the electronic control does not exhibit a "wear out" characteristic, but rather exhibits an in-service failure rate which may be somewhat random with time. Therefore, endurance tests or other "mechanical" type evaluations and subsequent tear downs do not establish any significant degree of implied or inherent design integrity as has been the case with mechanical systems evaluated in accordance with Part 33 of the FAR.

The applicable airworthiness requirements for the engine installation do not contain adequate standards by which to determine an acceptable level of safety for a full authority digital electronic engine control system installed on a transport airplane. Therefore, a special condition is required to establish that the overall propulsion control system (including the full authority electronic control) exhibits an acceptable level of system integrity.

An acceptable method to demonstrate compliance with this special condition is to show that the control system associated with the PW4000 engine, when installed in the A310–300, has a level of design integrity equivalent to hydromechanical systems meeting current airworthiness standards. The inherent level of design integrity for present day propulsion control is demonstrated by an inservice loss of thrust control of approximately once per 100,000 hours of operation. A similar level of loss of thrust control must be demonstrated for a propulsion control system considering all dispatchable states. Appropriate sources of data to support compliance for the components of the control system necessary to set thrust and safely operate each engine are service experience on these components, service experience on similar systems, FAA approved reliability analysis, and/or an FAA approved reliability life test. The minimum dispatch configuration will have to be taken into account.

Conclusion

In view of the design features discussed above, the following special conditions are required for the propulsion control system of the Model A310–300 under the provisions of § 21.16 to provide a level of safety equivalent to that intended by the regulations incorporated by reference. This action affects only certain unusual or novel design features on one model airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

In view of the certification date for the Airbus Model A310–324 aircraft of June 10, 1987, and subsequent delivery to U.S. operators, the FAA finds that notice and public comment prior to issuance of these special conditions is impracticable, and good cause exists for making these special conditions effective immediately. The need for and substance of these special conditions developed late in the certification program, without sufficient time for public procedure. As stated earlier in this document, interested persons are invited to submit written data, views, or arguments as they may desire.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued to Airbus Industrie for the model A310–300 airplane.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et. seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

1. *Lightning Protection.* In addition to compliance with the requirements of §§ 25.581 and 25.954 of the FAR concerning lightning protection, each electronic propulsion control system, whose failure to function properly would prevent the continued safe flight and landing of the airplane, must be designed and installed to ensure that its operation and operational capabilities are not affected when the airplane is exposed to lightning.

2. *Protection From Unwanted Effects of Radio Frequency (RF) Energy.* In the absence of specific requirements for protection from the unwanted effects of RF energy, each electronic propulsion control system, whose failure to function properly would prevent the continued safe flight and landing of the airplane, must be designed and installed to ensure that its operation and operational capabilities are not affected when the airplane is exposed to externally radiated electromagnetic energy.

3. *Propulsion Control System.* In addition to the requirements of §§ 25.901(c) and 25.903(b) of the FAR, the components of the propulsion control system for each engine, both airframe and engine furnished, that affect thrust in either the forward or reverse direction and are required for continued safe operation, must have the level of integrity and reliability of a hydromechanical system meeting current airworthiness standards.

Issued in Seattle, Washington, on June 9, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–13819 Filed 6–16–87; 8:45 am]

BILLING CODE 4910–3–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 371

[Docket No. 70593–7093]

Revision of General License GIFT

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: Export Administration is revising § 371.18 of the Export Administration Regulations (15 CFR Parts 368–399), which contains provisions on the applicability of General License GIFT for exports from the United States.

The dollar limit of commodities eligible for export under General License GIFT is raised from $200 to $400, *except* for gift shipments to Cuba. The dollar limit of commodities eligible for export to Cuba under General License GIFT remains $200.

Furthermore, in accordance with the President's directive to tighten economic policy toward Cuba, General License GIFT shipments to Cuba are modified to allow no more than one $200 gift parcel from the same donor to the same donee in any one month. Specific authorization to exceed this limit may be granted on a case-by-case basis to meet compelling humanitarian concerns (e.g., gifts of medicine to relatives). Export Administration will grant case-by-case

exemptions through issuance of a validated license.

EFFECTIVE DATE: June 17, 1987.

FOR FURTHER INFORMATION CONTACT: Glen Schroeder, Country Policy, Export Administration, Department of Commerce, Washington, DC 20230 (Telephone: (202) 377–3160).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because the rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary of final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Ron McGehee, Regulations Branch, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule contains a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), which has been approved by the Office of Management and Budget under control number *0625–0001.*

List of Subjects in 15 CFR Part 371

Exports, Reporting and recordkeeping requirements.

Accordingly, Part 371 of the Export Administration Regulations is amended as follows:

1. The authority citation for 15 CFR Part 371 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 CFR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 *et seq.*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 (October 2, 1986); E.O. 12571, October 27, 1986 (51 FR 39505, October 29, 1986).

2. Section 371.18 is amended by revising paragraphs (b)(2) and (b)(3) to read as follows:

§ 371.18 General license GIFT shipments of GIFT parcels.

* * * * *

(b) * * *

(2) *Dollar-value Limitations.* The combined total domestic retail value of all commodities included in a gift parcel shall not exceed $400, except for gift shipments to Cuba where the value shall not exceed $200.

(3) *Frequency of shipment.* Not more than one gift parcel may be sent by the same donor to the same donee in any one calendar week. Gift parcels to Cuba shall not exceed one $200 gift from the same donor to the same donee in any one month. Parties seeking authorization to exceed this limit due to the compelling humanitarian concerns (e.g., gifts of medicine to relatives) should submit an Application for Export License (ITA–622P) with complete justification.

* * * * *

Dated: June 12, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87–13789 Filed 6–16–87; 8:45 am]

BILLING CODE 3510-DT-M

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15 CFR Parts 371 and 374

[Docket No. 70360–7115]

Revision of General License GLR

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule revises General License GLR to expand the circumstances under which an exporter may ship one-for-one replacement parts for certain commodities that were lawfully exported from the United States. The rule is consistent with section 5(e)(3) of the Export Administration Act of 1979, as amended by the Export Administration Amendments Act of 1985. It modifies the existing provisions of General License GLR (15 CFR 371.17) and the permissive reexport provisions of the regulations (15 CFR 374.2).

The revised rules permit shipment of parts under a general license for use as one-for-one replacements in U.S.-origin commodities that were exported or reexported under either a general or validated export license. Such exports of replacement parts are not allowed if a validated export license authorizing export of the original commodities contains a condition requiring issuance of a validated export license for any future replacement parts. It is the intent of the Department of Commerce that this licensing restriction will be applied only to those cases where the license application would otherwise be denied.

The rule also permits reexport of parts under similar conditions to repair U.S.-origin commodities or foreign-made commodities that incorporate U.S.-origin components.

When replacement parts are exported or reexported under these provisions to Country Group Q, W, Y, or Z, the People's Republic of China (PRC), or Afghanistan, a quarterly report or certification of disposition of the replaced parts must be submitted to the Office of Export Licensing. Because of multilateral undertakings, the rule restricts exports and reexports of replacement parts under General License GLR to Country Groups Q, W, Y, and Z to $8,000 per shipment and exports to the PRC to $50,000 per shipment.

EFFECTIVE DATE: June 17, 1987, except for paragraphs (e)(4)(ii) and (f)(3)(v) of § 371.17 and paragraph (a)(4)(iii) of § 374.2, which are effective September 15, 1987.

FOR FURTHER INFORMATION CONTACT: John Black or Patricia Muldonian, Regulations Branch, Export Administration, Department of Commerce, Washington, DC 20230 (Telephone (202) 377–2440).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or

final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Joan Maguire, Regulations Branch, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule reduces the regulatory burden on exporters. The requirement to submit individual validated license applications to cover each export of one-for-one replacement parts to repair U.S. origin commodities (or foreign-made commodities that incorporate U.S. origin components) is removed by this rule. In most cases, the burden is removed completely; for the controlled countries, the licensing burden is replaced by the less onerous post-shipment report. In addition, the requirement to report exports of replacement equipment within two weeks of clearance of the replacement commodity through Customs with a follow-up letter upon destruction or return of the commodity is changed to a less frequent quarterly reporting requirement. Revisions to the existing information collection requirements are pending approval by the Office of Management and Budget under control number 0625–0068. Persons wishing to comment on this collection of information should address their comment to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Department of Commerce/International Trade Administration.

List of Subjects in 15 CFR Parts 371 and 374

Exports, Reporting and recordkeeping requirements.

Accordingly, Parts 371 and 374 of the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

PART 371—[AMENDED]

1. The authority citation for 15 CFR Part 371 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981, and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 *et seq.*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985), as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 (October 2, 1986); E.O. 12571, October 27, 1986 (51 FR 39505, October 29, 1986).

2. Section 371.17 is amended as follows:

A. The introductory text is revised to read as set forth below;

B. Paragraph (a)(2) heading is revised to read as set forth below, paragraph (a)(2)(i) introductory text is amended by adding "except Iran" after "Country Group T or V" and before "for servicing", and paragraph (a)(5) is added to read as set forth below;

C. Paragraph (e) is revised to read as set forth below;

D. The heading and introductory text to paragraphs (f), (f)(1)(i), (f)(1)(ii), and (f)(1)(iii) are revised to read as set forth below;

E. The words "part or" or "parts or" (appearing before the word "equipment") are removed from paragraphs (f)(1)(iv), (f)(2)(i), and (f)(3)(i);

F. In paragraph (f)(1)(v), the words "any defective or otherwise unusable part or equipment" are revised to read "defective or otherwise unusable equipment"; and

G. In paragraph (f)(2) heading, the words "Country Groups T and V" are revised to read "Country Groups T and V except Iran";

H. In paragraph (f)(2) introductory text, the words "Country Group T or V" are revised to read "Country Group T or V except Iran";

I. In the first sentences of the certifications in paragraph (f)(2)(iii) and (f)(3)(iii), the words "a defective or otherwise unusable U.S.-origin part or equipment" are revised to read "defective or otherwise unusable U.S.-origin equipment"; and, in the second sentences of these certifications, the words "part or" appearing before the word "equipment" are removed; and

J. Paragraph (f)(3)(v) is revised to read as set forth below.

§ 371.17 General License GLR; return or replacement of certain commodities.

A General License GLR is established, subject to the provisions of § 371.17, authorizing the return or repair of commodities and the replacement of parts, subject to the following provisions:

(a) * * *

(2) *Commodities imported from Country Group T or V except Iran.* (i) Any commodity sent to the United States from Country Group T or V except Iran for servicing * * *

* * * * *

(5) *Country Group S or Z.* No commodities may be exported to Country Group S or Z under § 371.17(a).

* * * * *

(e) *One-for-one replacement of parts.* Subject to the following conditions, parts may be exported under this general license for use as one-for-one replacements in previously exported equipment.

(1) *Definition.* The term "replacement parts" means parts needed for the immediate repair of equipment, including replacement of defective or worn parts. (It includes subassemblies as defined in § 373.7(a)(9), but does not include test instruments or operating supplies.) Commodities that improve or change the basic design characteristics, e.g., as to accuracy, capability, performance or productivity, of the equipment upon which they are installed, are not deemed to be replacement parts within the meaning of this general license.

(2) *Exclusions.* (i) No replacement parts may be exported under this provision to repair a commodity exported under a validated export license *if* that license included a condition that any subsequent replacement parts may be exported only under a validated license.

(ii) No parts may be exported under this provision to be held in stock abroad as spare parts for future use, except that parts may be exported to replace spare parts that were authorized to accompany the export of equipment, as those spare parts are utilized in the repair of the equipment. This will allow maintenance of the stock of spares at a consistent level as parts are used.

(iii) No replacement part may be exported under this general license if the replacement is to be incorporated into or used in nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear materials, or the fabrication of nuclear reactor fuel containing plutonium, as described in § 378.3.

(iv) No replacement part shall be exported under this general license if the replacement is to be incorporated into or used in any electronic, mechanical, or other device, as described in § 376.13(a), primarily useful for surreptitious interception of wire or oral communications.

(v) No replacement part shall be exported under this general license to destinations other than NATO members, Japan, Australia, or New Zealand, if the replacement part is specially designed for use in crime control and detection instruments and equipment as described in § 376.14.

(vi) No replacement part shall be exported under this general license to Cuba, Iran, Syria, the People's Democratic Republic of Yemen, or Libya (countries designated by the Secretary of State as supporting acts of international terrorism) if the commodity to be repaired is an aircraft, helicopter, or national security controlled commodity.

(vii) The exclusions set forth in this paragraph (e)(2) do not apply to reexports to a foreign country of parts as one-for-one replacements in foreign origin products, if at the time the replacements are furnished, the foreign origin product is eligible for export to such country under any of the exceptions in § 376.12(a).

(3) *General conditions.* (i) Parts may be exported only to replace, on a one-for-one basis, parts contained in commodities that were: Legally exported from the United States under either a general or a validated export license; legally reexported under a reexport authorization or permissive reexport; or made in a foreign country incorporating U.S. origin parts in compliance with the requirements of § 376.12. The conditions of the original license authorization must not have been violated. Accordingly, the export of replacement parts may be made only by the party who originally exported or reexported the commodity to be repaired, or by a party that has confirmed the appropriate authority for the original transaction (e.g., the validated export license number or general license symbol).

(ii) The parts to be replaced shall either be destroyed abroad or returned to the party who supplied the replacement parts, or to a foreign firm that is under the effective control of that party prior to, or promptly after, the shipment of the replacement parts. When a Shipper's Export Declaration is required, the exporter or his duly authorized agent shall place the appropriate portions of the following certification on the declaration form:

I (We) certify that the commodity(ies) described in this declaration is (are) being exported as one-for-one replacement parts under General License GLR. The defective or otherwise unusable part(s) that is (are being) replaced [(has been) (have been) (shall be promptly) returned to the United States] [(has been) (have been) (shall be promptly) returned to (name for foreign firm)] [(has been) (have been) (will be) destroyed abroad].

(4) *Special conditions applicable to exports to Country Groups Q, W, Y, and Z, the People's Republic of China and Afghanistan.* In addition to the general conditions set forth in paragraph (e)(3) of this section, the following apply to exports to a destination in Country Group Q, W, Y, or Z, the People's Republic of China or Afghanistan of parts included in an ECCN identified by the letter "A":

(i) No shipment of replacement parts under this license to Country Groups Q, W, Y, or Z may exceed $8,000 in value. No shipment of replacement parts under this license to the People's Republic of China may exceed $50,000.

(ii) The exporter shall file a quarterly report on parts being replaced, certifying the destruction or return of the defective parts. The report shall be by letter addressed to the Office of Export Licensing, P.O. Box 273, Washington, DC 20044. The report must identify the replacement parts by CCL entry, quantity, and value (whether sold or replaced without charge) and must specify who received the parts and the equipment in which they were installed.

(f) *Replacements for defective or unacceptable U.S.-origin equipment.* Subject to the following general and special conditions, any commodity may be exported under the provisions of this general license to replace a defective or otherwise unusable (e.g., erroneously supplied) U.S.-origin commodity, except that no commodity shall be exported to a destination in Country Group S or Z or Iran or to any other destination to replace defective or otherwise unusable equipment owned or controlled by, or leased or chartered to, a country in Country Group S or Z or Iran, or a national of such country.

(1) *General conditions.* (i) No commodity shall be exported to replace equipment that is worn out from normal use, nor may any commodity be exported to be held in stock abroad as spare equipment for future use.

(ii) The commodity to be replaced shall have been previously exported in its present form under a validated export license or reexported under authorization granted by the Office of Export Licensing.

(iii) The replacement commodity shall not have improved the basic characteristic, e.g., as to accuracy, capability, performance, or productivity, of the commodity as originally approved for export from the United States under a validated export license or for reexport under an authorization issued by the Office of Export Licensing.

* * * * *

(3) *Special conditions applicable to exports to Country Group Q, W, and Y.*

* * *

(v) The exporter shall file a quarterly report on equipment being replaced, certifying the destruction or return of the defective equipment. The report shall be by letter addressed to the Office of Export Licensing, P.O. Box 273, Washington, DC 20044. The report shall cite the validated export license number under which the defective or otherwise unusable equipment had been exported. The report must identify the replaced equipment by CCL entry, quantity, and value and must specify who received the equipment.

§ 371.18 [Amended]

3. In § 371.18, footnote No. 12 paragraph (a)(1) is redesignated as footnote No. 11.

§ 371.22 [Amended]

4. In § 371.22, footnote No. 13 to paragraph (b) introductory text is redesignated as footnote No. 12, and footnote No. 14 to paragraph (b)(4) is redesignated as footnote No. 13.

5. The authority citation for 15 CFR Part 374 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

PART 374—[AMENDED]

6. In § 374.2, paragraph (a)(4) is revised to read as follows:

§ 374.2 Permissive reexports.

* * * * *

(a) * * *

(4) May be exported directly from the United States to the country of destination under paragraph (e) or (f) of General License GLR (§ 371.17).

(i) A party reexporting U.S.-origin one-for-one replacement parts or replacements for defective or unacceptable U.S.-origin equipment shall ensure that the commodities being repaired or replaced were shipped to their present location in accordance with U.S. law and continue to be legally used, and that either before or promptly after reexport of the replacement parts or equipment, the replaced parts or equipment are either destroyed or returned to the United States or to the foreign firm in Country Group T or V that shipped the replacement parts or equipment.

(ii) If the replacement parts or equipment are being shipped to Country Group Q, S, W, Y, or Z, the People's Republic of China, or Afghanistan, submit one of the following written certifications on letterhead stationery, on a quarterly basis, to Director, Office of Export Licensing, Export Administration, P.O. Box 273, Washington, DC 20044:

(A) For one-for-one replacements (§ 371.17(e)):

I (We) certify that the commodity(ies) described below were reexported under the provisions of § 374.2 of the Export Administration Regulations as one-for-one replacement parts. The defective or otherwise unusable or worn out part(s) [was (were) returned to the United States on (date(s) of shipment to U.S.)] [was (were) returned to (name of foreign firm) on (date(s))] [was (were) destroyed abroad on (dates(s)) by (name of foreign firm)].

Quantity	Description of parts	ECCN	Dollar value

(B) For replaced equipment (§ 371.17(f)):

I (We) certify that the commodity(ies) described below were reexported under the provisions of § 374.2 of the Export Administration Regulations to replace defective or otherwise unusable U.S.-origin equipment previously (exported from the United States under validated export license _____) reexported from (name of country) under OEL Authorization No. _____. I (We) further certify that the defective or otherwise unusable equipment [was returned to the United States on (date of shipment to U.S.)]; [was returned to (name of foreign firm) on (date of receipt by foreign firm)]; [was destroyed abroad on (date) by (name of foreign firm)].

Quantity	Description of equipment (include characteristics such as model No., horsepower, size, etc.)	ECCN	Dollar value

Dated: June 12, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87-13788 Filed 6-16-87; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154 and 271

[Docket No. RM86-7-000; Order No. 473]

Compression Allowances and Protest Procedures Under NGPA Section 110; Correction

Issued: June 11, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule, correction.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its final rule, Compression Allowances and Protest Under NGPA section 110, 52 FR 21660 (June 9, 1987), by adding regulatory text to new paragraph (h) in § 271.1104. This regulatory text was inadvertently omitted from the final rule published in the **Federal Register.** The Commission is also correcting the authority citation for Part 271 to include the Administrative Procedure Act which was also inadvertently omitted.

EFFECTIVE DATE: June 9, 1987.

FOR FURTHER INFORMATION CONTACT: Peter J. Roidakis, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8224.

SUPPLEMENTARY INFORMATION:

Discussion

On June 3, 1987, the Federal Energy Regulatory Commission (Commission) issued its final rule for Compression Allowances and Protest Procedures Under NGPA Section 110, Order No. 473, 52 FR 21660 (June 8, 1987). A portion of the regulatory text for new paragraph (h) in § 271.1104 was inadvertently omitted in the version of the final rule sent to the **Federal Register** for publication. The Commission is also correcting the authority citation for Part 271 to include the Administrative Procedure Act which was also inadvertently omitted.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

1. The authority citation for Part 271 is revised to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717-717w (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982); Administrative Procedure Act, 5 U.S.C. 553 (1982).

2. In § 271.1104, paragraph (h)(1) is revised and a new paragraph (h)(2) is added to read as follows:

§ 271.1104 Production-related costs.

* * * * *

(h) *Pipeline list submissions and protest procedure*—(1) *Pipeline filings.* The information required by § 271.1104(h) (2) and (3) of this subpart must be filed with the Commission within September 8, 1987. A pipeline may submit the information required under §§ 271.1104(h) (2) and (3) of this subpart in any original and supplemental evidentiary submission, purchased gas adjustment, or rate filing with the Commission, or by providing specific references sufficient to locate the data in any of these prior filings.

(2) *Statements of contractual authority.* An interstate pipeline must file the following information for every first seller that sells gas to that pipeline and that asserts contractual authority to collect delivery allowances pursuant to any area rate clause:

(i) A statement specifying for each first seller whether, in the opinion of the interstate pipeline, that first seller has, or does not have, contractual authority to collect production-related costs permitted under § 271.1104 of this chapter;

(ii) Any data that supports the statement made under paragraph (h)(2)(i);

(iii) A copy of any data submitted under paragraph (f) of this section for each first seller; and

(iv) The rate schedule number (or if none has been assigned, the date of the contract) and the name of the seller for each first sale of natural gas where the seller has made a submission under paragraph (f) of this section.

* * * * *

[FR Doc. 87-13762 Filed 6-16-87; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 312

[Docket No. 82N-0394]

New Drug, Antibiotic, and Biologic Drug Product Regulations; OMB Approval of Requirements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Office of Management and Budget (OMB) has approved the collection of information requirement concerning annual reports of investigations under the investigational new drug regulations. The agency is amending those regulations to reflect OMB's approval.

EFFECTIVE DATE: June 17, 1987.

FOR FURTHER INFORMATION CONTACT: Steven H. Unger, Center for Drugs and Biologics (HFN-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8046.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 19, 1987 (52 FR 8798), FDA issued a final rule revising its regulations governing the submission and review of investigational new drug applications (IND's). In that document (52 FR 8800) the agency advised that OMB had approved the information collection requirements contained in the final rule, except that § 312.33 (21 CFR 312.33) contained revised information collection requirements that would be submitted to OMB for approval.

OMB has approved the collection of information requirement under OMB control number 0910-0014. This document announces OMB's approval of § 312.33, and amends the regulation of March 19, 1987 (52 FR 8798), to reflect that approval.

The agency also advises that the OMB control number 0910-0014 supersedes the OMB control number 0910-0162 cited in the March 19, 1987, final rule (52 FR 8800). Thus, this document also amends the regulation to reflect the current OMB control number for previously approved sections.

Because this amendment is nonsubstantive, notice and public procedure are unnecessary (5 U.S.C. 553 (b)(B) and (d)).

List of Subjects in 21 CFR Part 312

Drugs, Medical research.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act, 21 CFR Chapter I is amended as follows:

PART 312—INVESTIGATIONAL NEW DRUG APPLICATION

1. The authority citation for 21 CFR Part 312 continues to read as follows:

Authority: Secs. 501, 502, 503, 505, 506, 607, 701, 52 Stat. 1049-1053 as amended, 1055-1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 351, 352, 353, 355, 356, 357, 371); sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262); 21 CFR 5.10, 5.11.

§§ 312.10, 312.23, 312.30, 312.31, 312.32, 312.33, 312.36, 312.38, 312.41, 312.44, 312.45, 312.47, 312.53, 312.55, 312.56, 312.57, 312.59, 312.62, 312.64, 312.66, 312.70, 312.110, 312.120, 312.140, 312.160 [Amended]

2. Sections 312.10, 312.23, 312.30, 312.31, 312.32, 312.33, 312.36, 312.38, 312.41, 312.44, 312.45, 312.47, 312.53, 312.55, 312.56, 312.57, 312.59, 312.62, 312.64, 312.66, 312.70, 312.110, 312.120, 312.140, 312.160 are amended by adding at the end of each section "(Collection of information requirements approved by the Office of Management and Budget under number 0910-0014.)"

Dated: June 12, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-13796 Filed 6-16-87; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Sterile Prednisolone Acetate Aqueous Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reinstate the approval of a new animal drug application (NADA) sponsored by Schering Corp. providing for use of sterile prednisolone acetate aqueous suspension for dogs, cats, and horses.

EFFECTIVE DATE: June 17, 1987.

FOR FURTHER INFORMATION CONTACT: Andrew J. Beaulieu, Center for Veterinary Medicine (HFV-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3044.

SUPPLEMENTARY INFORMATION: Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033, is sponsor of NADA 10-312 which provides for use of Meticortelone® Aqueous Suspension (prednisolone acetate) in dogs, cats, and horses and Meticortelone® Tablets (prednisolone) in dogs and cats. The NADA was originally approved March 14, 1956. In a letter dated May 18, 1984, the firm requested withdrawal of approval of the NADA because the drug products are no longer being marketed and waived an opportunity for hearing. FDA published the withdrawal of approval in a notice and removal of 21 CFR 522.1881 in a final rule in the **Federal Register** of October 7, 1986 (51 FR 35632, 35693).

On November 4, 1986 Schering Corp. informed FDA that its request for withdrawal of approval was an error and requested reinstatement of the approval. In a subsequent letter dated February 27, 1987, Schering clarified its request for reinstatement to point out it should apply only to the aqueous suspension. FDA evaluated the request and the files and concluded that, in this instance, the request for reinstatement was justified. Therefore, NADA 10-312 is reinstated for the injectable aqueous suspension and § 522.1881 is added to reflect the reinstated approval. Prior to marketing the product, approval of revised labeling in accordance with current regulations is required.

List of Subjects in 21 CFR Part 522

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 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 522 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 522 is amended by adding new § 522.1881 to read as follows:

§ 522.1881 Sterile prednisolone acetate aqueous suspension.

(a) *Specifications.* Each milliliter of sterile aqueous suspension contains 25 milligrams of prednisolone acetate.

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(c) *NAS/NRC status.* The conditions of use are NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified in § 514.111 of this chapter but may require bioequivalency and safety information.

(d) *Conditions of use.* (1) The drug is indicated in the treatment of dogs, cats, and horses for conditions requiring an anti-inflammatory agent. The drug is indicated for the treatment of acute musculoskeletal inflammations such as bursitis, carpitis, and spondylitis. The drug is indicated as supportive therapy in nonspecific dermatosis such as summer eczema and atopy. The drug may be used as supportive therapy pre- and post-operatively and for various stress conditions when corticosteroids are required while the animal is being treated for a specific condition.

(2) The drug is administered to horses intra-articularly at a dosage level of 50 to 100 milligrams. The dose may be repeated when necessary. If no response is noted after 3 or 4 days, the possibility must be considered that the condition is unresponsive to prednisolone therapy. The drug is administered to dogs and cats intramuscularly at a dosage level of 10 to 50 milligrams. The dosage may be repeated when necessary. If the condition is of a chronic nature, an oral corticosteroid may be given as a maintenance dosage. The drug may be given intra-articularly to dogs and cats at a dosage level of 5 to 25 milligrams. The dose may be repeated when necessary after 7 days for two or three doses.

(3) The labeling shall comply with the requirements of § 510.410 of this chapter for corticosteroids.

(4) Not for use in horses intended for food.

(5) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: June 5, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-13767 Filed 6-16-87; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-3211-5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: On October 6, 1980, Indiana submitted its most recent opacity regulation, 325 IAC 5-1, as a revision to its total suspended particulate (TSP) State Implementation Plan (SIP). USEPA disapproved this regulation on December 16, 1983 (46 FR 55852); principally on the grounds that it would relax the standard set by the existing regulation, known as SIP APC 3, and that the State had failed to show that such a relaxation would not interfere with timely attainment and maintenance of the relevant air quality standards.

On August 22, 1984, however, the United States Court of Appeals for the Seventh Circuit declared SIP APC 3 invalid as applied to non-combustion sources. *Bethlehem Steel Corporation v. Gorsuch*, 742 F.2d 1028 (1984). As a result of this decision, USEPA re-examined its previous disapproval of 325 IAC 5-1 (hereinafter referred to as 1980 APC 3) and determined that it should propose to rescind its disapproval and approve the rule. USEPA proposed this action on November 16, 1984 (49 FR 45178). Comments were received from the State, several steel companies, and one environmental organization. Today's notice gives the background of this action, gives the reasons for USEPA's final determination, and summarizes and responds to the comments received.

While USEPA is generally approving 1980 APC 3 today, USEPA notes that, for certain source categories, 1980 APC does not meet the requirements in Part D of the Clean Air Act (Act) for reasonably available control technology (RACT) in nonattainment areas.

EFFECTIVE DATE: This final rulemaking becomes effective on July 17, 1987.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Robert B. Miller, at (312) 353-0396, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

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

Indiana Department of Environmental Management, Office of Air Management, 105 South Meridian Street, P.O. Box 6015, Indianapolis, Indiana 46206-6015.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604 (312) 353-0396.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 107 of the Act, USEPA has designated certain areas in each State as not attaining the National Ambient Air Quality Standards (NAAQS) for particulate matter, expressed as total suspended particulate (TSP). See 43 FR 8962 (March 3, 1978) and 40 CFR Part 81. For these areas, Part D of the Act requires that the State revise its SIP to provide for attaining the primary TSP NAAQS by December 31, 1982. These SIP revisions must also provide for attaining the secondary NAAQS as soon as practicable. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979).

Today's notice of final rulemaking concerns the opacity limits applicable to sources of TSP in the State of Indiana. Those limits have proved to be a source of controversy for many years between USEPA and both the State of Indiana and its industries. On December 16, 1983 (46 FR 55852), USEPA disapproved the most recent Indiana opacity regulation submitted for review, 1980 APC 3, principally on the grounds that it would relax the standard set by the existing regulation, SIP APC 3, and that the State had failed to show that such a relaxation would not interfere with timely attainment and maintenance of the relevant air quality standards. USEPA also disapproved the rule on two additional grounds: (1) The regulation did not meet the Part D requirements of RACT for some sources in nonattainment areas and (2) the State had not corrected certain legal and technical deficiencies which are discussed later in this notice. On August 22, 1984, however, the United States Court of Appeals for the Seventh Circuit declared SIP APC 3 invalid as applied to

non-combustion sources. *Bethlehem Steel Corporation v. Gorsuch*, 742 F.2d 1028 (1984).

As a result of this decision, USEPA re-examined its previous disapproval of 1980 APC 3 and determined that it should rescind that disapproval and approve 1980 APC 3. USEPA proposed this action on November 15, 1984 (49 FR 45178). One of the steel companies with a facility in Indiana and the Indiana Air Pollution Control Division (IAPCD) requested an extension of the comment period. On January 7, 1985, USEPA extended the public comment period to February 15, 1985 (50 FR 865).

Comments on the November 15, 1984, notice were received from the State, several steel companies, and one environmental organization. Today's notice gives the background of today's action, summarizes and responds to the comments received, and gives the reasons for USEPA's final determination. While USEPA is generally approving 1980 APC 3 today, USEPA notes that, for certain source categories, 1980 APC 3 does not meet the Part D requirement for RACT in nonattainment areas. Technical support documents on today's actions are available at the addresses listed in the front of this notice.

II. Background

In 1972, Indiana adopted and USEPA approved a State Implementation Plan (SIP) that included a regulation prohibiting the emission from "any combustion installation" of smoke darker than No. 2 on the Ringelmann Chart. This regulation was known as 1972 APC 3. The SIP also included other particulate control regulations, such as APC 5, which placed limits on the mass emissions of particulates from non-combustion sources; APC 4R, which placed limits on the mass emissions from combustion sources; and APC 6, which placed limits on mass emissions from foundries.

In 1974, the State of Indiana revised 1972 APC 3, and explicitly made it applicable as an independent control on both non-combustion and combustion sources. This revised regulation was known as 1974 APC 3. 1974 APC 3 imposed a 40 percent opacity limit,[1] subject to an exclusion of fifteen minutes per day during which opacity could exceed that amount. USEPA approved the 40 percent limit but disapproved the 15-minute exemption, 40 FR 50032 (October 26, 1975). Accordingly, the Federal codification of the Indiana SIP, 40 CFR 52.776(c), provided:

> APC 3 of Indiana's Air Pollution Control Regulations (visible emissions limitation) is disapproved insofar as the phrase "for more than a cumulative total of 15 minutes in a 24-hour period" will interfere with attainment and maintenance of particulate standards.

Until the recent Court ruling, 1974, SIP APC 3 was the SIP regulation for opacity in Indiana. Its present formulation resulted from USEPA's partial approval of Indiana's submission. In that form, it limited opacity to no greater than 40 percent but did not provide the 15-minute period per day when that limit could be exceeded, nor did it specify a method for determining when the 40 percent limit was exceeded.

On December 16, 1983, USEPA disapproved a subsequent Indiana regulation, which had been submitted as a revision to the SIP by Indiana on October 5, 1980 (1980 APC 3). The notice of disapproval interpreted SIP APC 3 to work in instantaneous terms—that is, to disallow any exceedances of 40 percent opacity.[2] The 1980 regulation, by allowing opacity to be determined on the basis of a 6-minute average, allowed some emissions that exceeded the 40 percent limit, as so interpreted; and USEPA, therefore, disapproved it because it relaxed existing provisions and the State had failed to demonstrate that the relaxation would not interfere with timely attainment and maintenance of the relevant air quality standards. 1974 APC 3, as originally submitted by Indiana, however, provided a 15-minute exemption. USEPA, by disapproving the time exemption and approving a bare 40 percent opacity limit, made the regulation susceptible to interpretation as disallowing any exceedances whatsoever. This possible reading, however, resulted from USEPA's editing. Indiana never expressed an intent to apply it this way; nor did it so enforce it.

III. Judicial Review of 1974 SIP APC 3

USEPA's partial approval of 1974 APC 3 was never challenged within the deadline prescribed by the pre-1977 Clean Air Act (Section 307(b)(1), 42 U.S.C. 1857h-s(b)(1) (1976)). It was subject, however, to a series of attacks in enforcement related proceedings.

In *Public Service Company of Indiana v. USEPA*, 682 F.2d 626 (7th Cir. 1982), cert. denied, 103 S. Ct. 762 (1983), the Court, though realizing the issue was not squarely before it, held that, in general, USEPA had the power to approve one part of a State submission and disapprove the rest. It based its decision both on textual grounds and on the argument that this power would advance the goals of the Act by allowing USEPA to consider approval of State regulatory choices to the maximum degree possible.

In *Bethlehem Steel Corporation v. Gorsuch*, 726 F.2d 356 (7th Cir. 1984) (*Bethlehem II*),[3] vacated and rehearing granted (April 27, 1984), opinion on rehearing (August 22, 1984) *Bethlehem Steel Corporation v. Gorsuch*, 742 F.2d 1028 (1984) (*Bethlehem III*), the Court detailed this analysis. In *Bethlehem II*, the majority upheld USEPA's partial approval of 1974 APC 3. On rehearing, however, in *Bethlehem III*, the Court readdressed the question in more depth and invalidated USEPA's partial approval of 1974 APC 3 as applied to non-combustion sources.

IV. The Bethlehem III Decision

Petitioners in *Bethlehem III* argued that 1974 APC 3 was defective because USEPA—

> Had improperly used the technique of "partial approval" to make 1974 APC 3 a stricter regulation than the State had intended either in the State's own version of 1974 APC 3 or in the previous regulation, 1972 APC 3.

The Court tested this assertion by its own comparison of 1974 APC 3 with its predecessor, 1972 APC 3. The Court interpreted 1972 APC 3 as setting an opacity limitation of No. 2 on the Ringelmann Chart on emissions from combustion sources only. As to non-combustion sources, however, the Court held that an exceedance of this opacity limitation would at most "violate the regulation prima facie [so that a company] can rebut the prima facie case by showing that the level of particulates

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[1] A 40 percent opacity limt is comparable to No. 2 on the Ringelmann Chart.

[2] 48 FR 55852 et seq. (December 16, 1983). In 1979, Indiana had adopted a revised APC 3 ("1979 APC 3") (subsequently codified as 325 IAC 1-3.1.), which it submitted to USEPA as a proposed SIP revision. 1979 APC 3 provided for average opacity limitations, and repealed 1974 APC 3.

On March 27, 1980, USEPA proposed to disapproved 1979 APC 3 with respect to all sources except iron and steel sources (45 FR 20432). On July 3, 1980, USEPA proposed to disapprove 1979 APC 3 with respect to iron and steel sources for the same reasons cited in its earlier notice (45 FR 45314). Although USEPA never took final action on 1979 APC 3, in its December 16, 1983, notice on 1980 APC 3, USEPA announced that it had "discontinued rulemaking" on 1979 APC 3, since it regarded 1980 APC 3 as a "substitute for 1979 APC 3" (48 FR 55853). See *Bethlehem Steel Corp. v. EPA*, Nos. 84-1168, 84-1182, 84-1196 (7th Cir. slip opinion), February 11, 1986; *rehearing denied* April 22, 1986.

[3] This opinion followed a prior opinion in the same case, *Bethlehem I* (Bethlehem Steel Corporation v. USEPA, 638 F.2d 994 (7th Cir. 1980), in which the Court remanded the case to USEPA to supplement the record, without deciding the issue of partial approval.

in its non-combustion emission is within the ceiling fixed by APC 5." 742 F.2d at 1032.

After setting forth its interpretation of 1972 APC 3, the *Bethlehem III* Court compared that regulation both to 1974 APC 3 as enacted by Indiana and to 1974 APC 3 as approved by USEPA. As to combustion sources, the Court held that the only significant difference between the 1972 and 1974 regulations enacted by Indiana was the 1974 APC 3 created a 15-minute per day exemption. Thus, when USEPA approved APC 3's 40 percent opacity limitation, but disapproved the 15-minute exemption, it merely—

> Disapproved the State's attempt to relax its regulation of those installations. As to them, the USEPA's "partial approval". . . was snugly within the EPA's power. 742 F.2d at 1034.

But the Court found:

> With regard to non-combustion emissions, 1974 APC 3, at least when stripped of its 15-minute blow-off provision, stiffened the preexisting regulation. It made the 40 percent opacity limitation mandatory for such sources for the first time. Before then, as we have seen, the limitation only put the source to its proof of compliance with APC 5 and maybe didn't even do that. Id.

The Court determined that—

> By revising 1974 APC 3 as it did, the USEPA converted 40 percent opacity from (at most) a trigger to a ceiling, thus making the State's control of non-combustion emissions more stringent on its face than the State had ever intended it to be. Id. at 10–11.

The *Bethlehem III* Court held that this action by USEPA was at odds with the Clean Air Act, and therefore, impermissible. While, as the Public Service case showed, USEPA is empowered to disapprove an attempt by the State to weaken its existing plan with respect to combustion sources, it may not, by the mechanism of a "partial approval" significantly increase the stringency of a state regulation.

V. Current State of Indiana Opacity SIP Provisions

The effect of the Seventh Circuit's decision in Bethlehem III on the opacity SIP provisions in Indiana (prior to today's rulemaking) appears to be as follows:

(1) With respect to combustion sources, 1974 SIPA APC 3 is still in force. The Court found that, when USEPA excised the time exemption from 1974 APC 3 insofar as it applied to combustion sources, it was merely preventing the State from weakening its previous regulation.

(2) With respect to non-combustion sources, the Court invalidated 1974 SIP APC 3. In accordance with USEPA's "continuity policy", the valid SIP directly preceding 1974 APC 3 takes its place. This means that 1972 APC 3 is now the opacity regulation applicable to non-combustion emissions in Indiana.

IV. Effect of Bethlehem III on Proposed 1980 APC 3

In December 1983, when USEPA issued its notice of disapproval of Indiana's 1980 APC 3, the existing SIP provisions and the Agency's view of those provisions were quite different from those outlined above. Principally, USEPA based its disapproval of 1980 APC 3 on the grounds that the revisions contained in that regulation would constitute a significant relaxation in relation to 1974 SIP APC 3 that the State had not justified by an attainment demonstration. However, the Seventh Circuit's decision and its impact on 1974 APC 3 prompted USEPA to reconsider that disapproval, and, on November 15, 1984 (49 FR 45178), to propose to approve 1980 APC 3 for both non-combustion and combustion sources. USEPA's November 15, 1984, reproposal was based on the following reasons:

1. Non-Combustion Sources

The *Bethlehem III* Court invalidated SIP APC 3 with respect to noncombustion emissions, and left 1972 APC 3 as the only opacity limitation applicable to these emissions. Thus, for non-combustion emissions, the Agency must no longer judge the relative strength or laxity of 1980 APC 3 in comparision to 1974 APC 3, but rather in relationship to 1972 APC 3.

The Court held that, at most, 1972 APC 3 imposed a *prima facie* opacity limitation on non-combustion emissions, rebuttable by evidence of compliance with mass emissions limitations. The Court was not precise in construing the exact meaning of 1972 APC 3 as applied to noncombustion sources. Any colorable interpretation of the Court's ruling, however, leads to the same conclusion—the provisions of 1980 APC 3 are stricter, not more lenient than those of 1972 APC 3.

1980 APC 3, in contrast to the Court's findings on 1972 APC 3, provides specific, mandatory opacity limits for noncombustion sources. 1980 APC 3 sets a mandatory 40 percent opacity limit for "attainment areas" and a 30 percent limit for "nonattainment areas", both as classified by the State. These limits are to be determined as averages over a 6-minute period. The regulation further provides for a 60 percent opacity limit as an additional "cap" on the 40 and 30 percent opacity average limitations. This 60 percent limit is not to be exceeded for a cumulative total of more than 15 minutes in any 6-hour period (i.e., the 61st 15-second reading and any subsequent readings above 60 percent observed in any 6-hour period constitutes a violation), and applies simultaneously with the general 40 and 30 percent average limits. (See 40 CFR Part 60, Appendix A, Method 9 for methodology on opacity observations.) Therefore, approval of 1980 APC 3 strengthens controls on non-combustion sources.

2. Combustion Sources

The *Bethlehem III* Court followed the *Public Service* decision in upholding USEPA's partial approval of 1974 APC 3 as applied to combustion sources. The Court found that, when USEPA disapproved the 15-minute exemption in 1974 APC 3, the only effect on combustion sources was to maintain the standard set by 1972 APC 3.[4] Thus, *Bethlehem III* left 1974 APC 3 intact as it applies to combustion sources. The Agency, therefore, still must compare 1980 APC 3 to 1974 SIP APC 3 to determine whether it sets an approvable standard for combustion sources.

In USEPA's December 16, 1983, notice of disapproval, the Agency interpreted SIP APC 3 to apply in instantaneous terms, that is, to bar any exceedance of a 40 percent opacity limit. For a number of reasons, however, the Agency now believes that, as a result of the Court's ruling in *Bethlehem III*, the better intepretation of that regulation is to apply a 6-minute averaging approach, as many commentors have contended. The Agency reached this conclusion after considering, not just the impact of the decision, but the characteristics of emissions from combustion sources, expressions of State intent, and the desirability of consistency of regulation between combustion and non-combustion sources. On November 16, 1984, USEPA gave the following reasons for this conclusion:

a. The Impact of the *Bethlehem III* Decision

As a result of the *Bethlehem III* decision, 1974 SIP APC 3 applies only to combustion sources. For the most part, these sources generate continuous emissions, for which it is generally agreed that averaging methods, rather than instantaneous measurements, are appropriate. USEPA's December 16, 1983, notice of disapproval, which was

[4] The Court noted that 1972 APC 3 spoke in terms of a limit set at No. 2 of the Ringelmann Chart, while 1974 SIP APC 3 is couched in terms of 40 percent opacity. It found, however, that "No. 2 on the Chart is a commonly used proxy for 40 percent opacity"; and thus saw no significant differences in the limits set by each regulation. 742 F.2d at 1031.

based on an instantaneous interpretation of 1974 SIP APC 3, nevertheless recognized that averaging is an appropriate technique for continuous sources and observed that 1980 SIP APC 3—

> Would not be a significant relaxation of the SIP as it affects continuous sources whose opacity does not significantly vary over a 6-minute period (48 FR 55855).

b. Expressions of State Intent

By deleting 1974 APC 3's time exemption, USEPA ran counter to Indiana's intent to temper (1) the stringency of the regulation and (2) the application of a fully instantaneous measurement method. Insofar as possible, USEPA should interpret 1974 SIP APC 3 to respect this intent.

c. Enforcement Practice

USEPA's partial disapproval of 1974 APC 3 has resulted in confusing and inconsistent enforcement policies. Using 6-minute averaging, as contained in 1980 APC 3, for enforcing SIP APC 3 opacity limits in relation to combustion sources resolves any such confusion.

d. Regulatory Consistency

Approving 1980 APC 3 for combustion sources would also be consistent with the Agency's proposal to approve 1980 APC 3's 6-minute averaging provisions with respect to non-combustion sources, because the same rule would apply to all sources.

Having thus interpreted 1974 SIP APC 3 as having a 6-minute average compliance method, the Agency then compared the regulation to 1980 APC 3. USEPA proposed its determination that 1980 APC 3 is equal to or more stringent than 1974 APC 3 as applied to combustion sources. Like SIP APC 3, 1980 APC 3 imposes a 40 percent opacity limit in attainment areas, and it is stricter than SIP APC 3 in imposing a 30 percent limit in nonattainment areas. It, therefore, is generally approvable with respect to noncombustion and combustion sources.

VII. Indiana Supreme Court Decision

The proposal to approve 1980 APC 3 was subject to the resolution of a problem arising from a recent decision of the highest State court in Indiana. In December 1983, the Indiana Supreme Court held that the designation of Wayne County, Indiana as a "nonattainment" area for sulfur dioxide constituted "adjudication" requiring a formal hearing under Indiana law. *Indiana Air Pollution Control Board et al.* v. *City of Richmond*, No. 1283 S 472 (December 30, 1983). Because 1980 APC 3 imposes stricter standards on "nonattainment" areas than on others, and because adjudication procedures concededly have not been followed for such decisions in the past, this decision raised a number of questions and could be construed to have either a great or a minimal effect or Indiana's designation scheme in general and 1980 APC 3 in particular. To speed resolution of the uncertainties generated by the *City of Richmond* decision, USEPA requested the Governor of Indiana to obtain an Opinion regarding the impact of that decision from the Office of the Attorney General for the State of Indiana.

Instead, the Indiana legislature clarified the State's enabling legislation to make explicit the procedures for redesignations. The existing designations were affirmed through the legislation until 1987 (or such time as Indiana redesignates the State using the procedures called for in the legislation). Therefore, the State's current designations are enforceable by the State, and the legality of Indiana's designations is no longer an issue.

VIII. Remaining Technical Deficiencies

In its December 1983 notice of disapproval of 1980 APC 3, USEPA noted that Indiana has agreed to correct six technical deficiencies in the proposed SIP revision if USEPA conditionaly approved (or approved) 1980 APC 3. On November 15, 1984, USEPA requested that Indiana make these already agreed-upon technical corrections, which are:

> (1) Clarify that the 60 percent opacity limit (to be exceeded for a cumulative total of no more than 15 minutes in a 6-hour period) applies simultaneously with the general 40 percent (30 percent in nonattainment areas) opacity 6-minute average limit.
>
> (2) Clarify that the rule applies to all sources of visible emissions. Therefore, both stack and nonstack sources are subject to the rule.
>
> (3) Amend the regulation so that its internal references are consistent.
>
> (4) Delete the term "intermittent source" from the regulation.
>
> (5) Clarify Section 3 (a) and (b), which contain the term "continuous minutes". The intent of Section 3(a) is to allow one period per any 24-period during either a startup or shutdown where the opacity limits may be exceeded. This period cannot exceed 10 minutes in duration. Section 3(b) is intended to allow exceedances for boiler cleaning with such exceedances similarly limited to 3 occurrences in any 12-hour period, with no more than one occurrence in any 60 minutes and each occurrence being limited to a maximum of 5 minutes duration.
>
> (6) Delete the provisions that in-stack monitors take precedence over observations by qualified personnel.

On February 12, 1985, the State committed to correct these technical deficiencies. It additionally committed to preliminarily adopt these revisions within two months of USEPA's final rulemaking. USEPA finds this commitment acceptable and is approving 1980 APC 3 with this understanding.

IX. Public Comments Received and USEPA Responses

During the 60-day public comment period USEPA received comments from the State, several steel companies, and one environmental organization. A summary of these comments and the Agency's responses to them are given below.

Comment: USEPA should not approve Indiana's opacity regulations independent from its action on Indiana's overall SIP's for TSP nonattainment areas in the State.

Response: USEPA believes that the Act authorizes approval of elements of a plan which provide for further progress toward ultimate attainment, even if the total plan does not demonstrate attainment at that time. In areas with a complex range of sources and types of emissions, various TSP sources are best regulated by different types of requirements—e.g., opacity limits, mass limits, fugitive dust control measures. This is the situation in Indiana's TSP nonattainment areas. Under these circumstances, movement toward expeditious attainment may be facilitated if USEPA rulemakes on each element of the plan as it is received rather than waiting for the plan as a whole. However, USEPA will not approve the plan as a whole until the State submits and USEPA approves all elements of the plan. Here, this opacity regulation obviously fills a gap in the SIP and, therefore, improves the SIP. Filling this gap also moves nonattainment areas closer to ultimate attainment.

Comment: The USEPA has a responsibility to see that Indiana's regulations fully comply with the requirements of Part D. Rather than approve an opacity regulation known to be deficient, USEPA should commence rulemaking on an opacity plan which assures that the particulate matter standards are attained and requires the use of RACT.

Response: The underlying assumption of this comment appears to be that approval of 1980 APC–3 in some way would inhibit USEPA in carrying out its responsibilities to establish a full and adequate SIP. That assumption, however, is wrong. Even if USEPA had a responsibility to go through rulemaking immediately to create such a plan, the

approval would not interfere in any way with that effort. The approval merely fills a gap in the SIP for the interim, and USEPA is making it clear in this notice that 1980 APC–3 does not constitute RACT. Hence, the approval in no way compromises the activity of USEPA or the state to impose more stringent requirements. In any event, USEPA's responsibilities for promulgating a full plan may not yet have ripened into a duty to act immediately inasmuch as a ban on the construction of major new TSP sources under section 110(a)(2)(I) of the Act is in effect in certain primary nonattainment areas and Indiana may attempt to remove that ban through the submission of further measures.

Comment: USEPA has not shown that 1980 APC 3 represents RACT for sources in nonattainment areas.

Response: USEPA recognizes that 1980 APC 3 does not constitute a RACT level of control for certain process fugitive sources.[5] Even though the regulation itself does not constitute RACT for certain process fugitive sources, USEPA is generally approving it because it is more stringent than the present SIP opacity regulations. Therefore, it should lead to reduced levels of TSP, and it will contribute toward ultimate attainment of the standards in nonattainment areas. Indiana must still submit RACT level opacity controls for all process fugitive sources in order to fully meet Part D.

Comment: What opacity limit applies to coke oven doors and pushing emissions? Is it RACT?

Response: Prior to this rulemaking, the applicable opacity limit for all process sources such as coke oven doors and pushing emissions was 1972 APC 3. As discussed further below, coke over doors and pushing emissions continue to be subject to 1972 APC 3.

The *Bethlehem III* Court held that at most 1972 APC imposed *prima facie* opacity limitation on non-combustion emissions, rebuttable by evidence of compliance with mass emission limitations. As stated earlier, USEPA believes that this means that the provisions of 1980 APC 3 are stricter than those of 1972 APC 3. Because USEPA does not believe that 1980 APC is RACT for these process fugitive sources, 1972 APC 3 is also not RACT.

Comment: 1980 APC 3 should not be applied to emissions from coke oven doors, pushing, and quenching.

Response: USEPA is disapproving 1980 APC 3 for coke oven door, pushing, and quenching emissions. 1980 APC 3 states that specified opacity limits contained in Indian Rule 325 IAC 11–3, Coke Oven Batteries, (and certain other rules) supersede 1980 APC 3 opacity limits. Therefore, the State never intended for the opacity limits in 1980 APC 3 to apply to these sources. Moreover, because USEPA has disapproved 325 IAC 11–3 for over door emissions in Lake and Marion Counties[6] and disapproved it for pushing and quenching emissions in all counties (48 FR 54599, December 6, 1983), the opacity emission limits within 325 IAC 11–3 are also not applicable to these sources. Instead, the applicable SIP opacity limit for these sources remains 1972 APC 3 under USEPA's continuity policy. For all other sources regulated by 325 IAC 11–3, the opacity limits specified in 325 IAC 11–3 (either 1980 APC 3 or a limit in the rule itself) are approved.

However, 1972 APC 3 does not represent RACT for those sources with disapproved limits. Therefore, the SIP is deficient as it relates to RACT for process fugitive emissions, including coke oven doors and pushing, in nonattainment areas. For quenching emissions, however, USEPA recognizes that it is rarely possible to accurately determine opacity from quenching operations, and as a result, opacity limits are not an appropriate methodology to assure RACT for quenching. In order to meet the requirements of Part D for TSP, Indiana must submit RACT level opacity limits for process fugitive emissions other than quenching operations.

Comment: It is inappropriate for USEPA to compare 1980 APC 3 to the combination of 1972 APC 3 and 1974 APC 3. Because upon its State promulgation the 1974 rule repealed the 1972 rule, the two cannot co-exist.

Response: Under section 110(d) of the Act, the applicable SIP is that which has most recently been approved under section 110(a) or federally promulgated under section 110(c). Thus, 1972 APC 3 remained effective until USEPA approved SIP APC 3 in 1974, regardless of its repeal under State law. Under USEPA's Continuity Policy (described in II(B)(3) at 44 FR 20373 in the April 4, 1979, General Preamble), when the Seventh Circuit in *Bethlehem III* held SIP APC 3 invalid as applied to noncombustion sources, 1972 APC 3 again became applicable to such sources.

Comment: USEPA cannot approve 1980 APC 3 based on the fact that it is more stringent than the SIP opacity limits for three reasons:

1. Relative stringency is not a criterion for approving SIP revisions; the only criterion is consistency of the SIP with the criteria in section 110(a)(2) of the Clean Air Act.

2. USEPA did not determine that the vestiges of SIP 1974 APC 3 remaining after *Bethlehem III* meet the requirements of section 110 (a)(2). Therefore, USEPA cannot approve 1980 APC 3 simply on the basis that it is more stringent than SIP 1974 APC 3. Moreover, USEPA's current interpretation of this regulation as a 6-minute average makes the regulation substantially less stringent than the "instantaneous" opacity limit, as previously interpreted by USEPA. Finally, until USEPA determines that SIP 1974 APC 3's 40 percent standard meets the attainment and maintenance requirements of the Act, USEPA cannot approve 1980 APC 3 because it is more stringent.

3. In *Bethlehem Steel Corp.* v. *Ruckelshaus*, Cause Nos. 84–1233, 84–1242, and 84–1245, the U.S. Court of Appeals for the Seventh Circuit remanded SIP 1974 APC 3 to the USEPA for its reconsideration. Therefore, no part of SIP 1974 APC 3 can be viewed as ever being validly approved as a part of the applicable SIP for Indiana, and it cannot be used as a basis for the approval of 1980 APC 3.

Response: As stated in the notice of proposed rulemaking, USEPA is in actuality comparing 1980 APC 3 to two currently enforceable opacity SIP regulations; 1972 APC 3, as it relates to noncombustion sources, and 1974 SIP APC 3, as it relates to combustion sources. USEPA is approving 1980 APC 3 as being more stringent than the present opacity SIP because these more stringent requirements contribute to a more expeditious attainment of the NAAQS. USEPA believes that it has the authority to approve provisions which may not fulfill all the requirements of section 110(a)(2) of the Act, but which contribute to reasonable further progress towards final attainment of the NAAQS. See, e.g., section 172 of the Act.

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[5] 1980 APC 3 may also not constitute a RACT level of control on certain combustion and process stack sources. However, USEPA has determined that because these sources can be stack tested and controlled to RACT levels by their mass limits, RACT level opacity limits will not be required at this time.

Because process fugitive sources normally cannot be stack tested by USEPA reference methods, opacity limits are relied upon more heavily to assure that they are controlled to RACT levels. Therefore, RACT level opacity limits for process fugitive sources are necessary to meet Part D of the Act.

[6] On February 18, 1987 (52 FR 4902), USEPA approved alternate opacity RACT/BACT/LAER limits for certain emission points within coke batteries in Marion County. These limits, when combined with 325 IAC 11–3 and 1980 APC 3, constitute an acceptable RACT opacity SIP for coke batteries there.

The logical extension of the commentor's point is that USEPA must wait for all pieces of a plan to be submitted before it may approve a single piece. But Congress could not have intended such an approach because it would result in a delay of federally enforceable abatement requirements. USEPA believes that Congress would have wanted USEPA to approve appropriate increments as they are submitted.

As to the commentor's second point, USEPA is not approving the opacity requirements in Indiana's 1980 APC 3 as, in and of themselves, meeting the requirements of section 110 of the Act, but only as one element of that plan contributing toward the attainment and maintenance of the TSP NAAQS. Additionally, USEPA is not approving them as meeting the requirements of Part D of the Act, because they do not represent RACT for certain process fugitive sources. For the reasons set forth above, USEPA is not reaching the issue of whether SIP 1974 APC 3 satisfies the attainment requirement of section 110(a)(2) or the RACT requirements of Part D.

The commentor's third point as to the current SIP status of SIP 1974 APC 3 is also not an impediment to the approval of 1980 APC 3. USEPA disagrees with the commentor's contention as to the effect of the Seventh Circuit remand. Even assuming for the sake of argument that there were no current opacity SIP limits, USEPA could and would approve 1980 APC 3, because it would obviously be more stringent that no opacity limits whatsoever.

Comment: USEPA must have a demonstration that a plan will assure attainment of the NAAQS and/or an estimate of emissions and their air quality impact before it can approve a plan (or a portion of a plan). USEPA has espoused this requirement in previous rulemakings.

Response: USEPA agrees that it must have an air quality demonstration where (1) it completely approves a plan for an area or (2) it approves a revised element in a plan which constitutes a relaxation for certain sources from the existing plan.

As stated above, in today's rulemaking, USEPA is not approving Indiana's complete plan for TSP, but only one element within the plan.

As to the second possibility, 1980 APC 3 is more stringent than or equal to, not a relaxation from, the existing opacity SIP. USEPA's approval today is based on this determination and its consequence that the revised opacity plan will contribute to reasonable further progress towards attainment of the NAAQS in nonattainment areas. USEPA is approving the regulation in attainment areas because the more stringent regulation will lead to maintenance of the NAAQS and is approvable under section 116 of the Act.

Comment: USEPA's approval of 1980 APC 3 should not apply to the underfire stack at Coke Battery No. 2 of Bethlehem Steel Corporation's Porter County facility. Indiana submitted as a revision to the SIP an "Equivalent Visible Emission Limit" (EVEL) for this source.

Response: USEPA approved this EVEL on April 17, 1985 (50 FR 15144), and agrees that 1980 APC 3 (or any other general SIP opacity regulation) does not presently apply to this stack. However, as noted in the April 17, 1985, notice, if a more stringent mass limit becomes enforceable, the EVEL would no longer be applicable. Unless the State were to submit and USEPA approve a new EVEL based on this more stringent mass limit, the opacity SIP limits for this source would then become those contained in the general opacity SIP applicable at that time.

Comment: Indiana has submitted a revised TSP plan for Porter County which includes an opacity exemption for blast furnace casting. Therefore, USEPA cannot approve 1980 APC 3 for this source category in Porter County because 1980 APC 3 is no longer enforceable for these sources at the State level.

Response: USEPA essentially agrees. In its view, the State in submitting the Porter County plan in effect withdrew 1980 APC–3 for Porter County. USEPA notes, however, that it recently disapproved Indiana's revised TSP plan for Porter County (52 FR 3640, February 5, 1987). As a result of this disapproval, sources in Porter County remain subject to the previously approved opacity SIP, which is 1972 APC–3 for blast furnace casting.

Although not addressed by the commentor, this same logic could apply to other superseding regulations in Indiana, i.e., all of the emission points in the Porter County source-specific (Bethlehem Steel) TSP regulation, 325 IAC 6–6, and the Lake County TSP regulation, 325 IAC 6–1–10.2. In Porter County, USEPA disapproved 1980 APC 3 for all affected Bethlehem Steel sources. Under USEPA's continuity policy, 1972 APC 3 will continue to apply to all process sources and 1974 APC 3 will continue to apply to all combustion sources contained in 325 IAC 6–6–4.

Additionally, Indiana's Lake County TSP plan contains superseding opacity limits (either site-specific limits or 30 percent opacity, 6-minute average—325 IAC 6–1–10.2(q) for emission points listed in Table 2 of 325 IAC 6–1–10.2 Consequently, 1980 APC 3 does not currently apply under the State regulations to these sources in Lake County. Further, USEPA disapproved Indiana's Lake County TSP plan, including 325 IAC 6–1–10.2, on January 17, 1986 (51 FR 2492). 1980 APC 3's Applicability Section states that 1980 APC 3 does not apply where it has been superseded by specific visible emission requirements in 325 IAC Article 6. USEPA cannot approve 1980 APC 3 for sources to which it does not apply, and therefore, USEPA is disapproving 1980 APC 3 as it applies to these sources in Lake County. In Lake County, 1972 APC 3 continues to apply to all process sources and 1974 APC 3 continues to apply to all combustion sources listed in Table 2 of 325 IAC 6–1–10.2.

X. Conclusion

An opacity regulation is required by 40 CFR 51.212 to be a part of all of the States' SIPs. Indiana submitted the revised opacity regulation, 1980 APC 3, to USEPA on October 6, 1980. Because Indiana has nonattainment areas for TSP, Part D, as well as section 110, of the Clean Air Act governs evaluation of Indiana's 1980 APC 3 as an opacity SIP revision. 1980 APC 3 is not as stringent as USEPA normally requires under Part D for States which, like Indiana, have not attained the National Ambient Air Quality Standards. It does not represent reasonably available control technology for many source categories, e.g., process fugitive sources. In addition, the State of Indiana has failed to supply any quantitative analysis showing that the proposed rules, without tightening, are consistent with attainment and maintenance of the standards. The Indiana SIP, therefore, cannot be regarded as meeting the full requirements of Part D or section 110(a)(2) of the Clean Air Act, even with today's approval of 1980 APC 3.

1980 APC 3 does, however, represent the current State position on the regulation of opacity of TSP sources in a situation where the existing regulatory system is plainly inadequate. It reflects the current State law and policy choices in an area substantially confused by a long history of litigation. It is in no way inconsistent with future adoption of additional rules to meet the full requirements of the Clean Air Act. Therefore, today USEPA is approving 1980 APC 3 for all sources in Indiana, except it is disapproving it for (1) the Lake County source-specific emission points listed in Table 2 of Indiana regulation 325 IAC 6–1–10.2, (2) pushing

and quenching emissions throughout the State, and (3) coke oven doors in Lake and Marion Counties. For the Porter County source-specific (Bethlehem Steel) stack emission points listed in Indiana regulation 325 IAC 6–6–4, USEPA has already disapproved 1980 APC 3 as it applies to these sources. As to the one EVEL currently approved by USEPA for Indiana at this time (Bethlehem Coke Battery No. 2 underfire stack), USEPA is approving 1980 APC 3's application to it only to the extent that the general opacity rule would apply to this source if in the future Indiana were to request and USEPA would approve a revised mass emission limit for this source. USEPA is also codifying the deficiency in Indiana's process fugitive opacity SIP at 40 CFR 52.776, Control strategy: Particulate matter.

USEPA conditionally approved Indiana's Part D TSP plans for Clark, Dearborn, Dubois, St. Joseph, Vanderburgh, and Vigo Counties on July 16, 1982 (47 FR 30980). This conditional approval was based on USEPA's determination that 1974 SIP APC 3, when interpreted on an instantaneous basis, constituted a RACT level of control for opacity for all sources in Indiana's TSP nonattainment areas.

However, as stated above, upon USEPA's reevaluation of the proper averaging time frame for SIP 1974 APC 3, this July 16, 1982, determination no longer holds. Additionally, USEPA is determining today that 1980 APC 3 does not constitute RACT. Therefore, upon the effective date of today's rulemaking, these conditionally approved Indiana Part D TSP plans are now deficient. In order to meet the requirements of Part D, Indiana must submit approvable process fugitive opacity regulations (or certify that there are no process fugitive sources within these areas). Today's notice does not remove USEPA's July 16, 1982, conditional approval of other elements of the plans for these counties, e.g., emission limits. These remain approved (at 40 CFR 52.770(c)(34)) and are enforceable by USEPA.

The opacity deficiency also applies in two other nonattainment counties, Lake and Marion Counties. These counties, however, currently do not have approved Part D TSP SIPs. This deficiency must be removed before USEPA can approve these SIPS.

Section 110(a)(2)(I) imposes a construction ban on (primary) nonattainment areas which do not have approved SIPs. The only two counties in Indiana which continue to have primary TSP nonattainment areas are Lake and Marion Counties, which currently have the ban in effect. Therefore, today's notice will not reimpose the section 110(a)(2)(I) construction ban in any area of Indiana.

XI. Miscellaneous

Under Executive Order 12291, this action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

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 August 17, 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, Incorporation by reference, Intergovernmental relations, Particulate matter.

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

Dated: June 5, 1987.

A. James Barnes,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart P—Indiana

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

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.770 is amended by removing and reserving paragraph (c)(36) and by revising paragraph (c)(53) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(36) [Reserved]

* * * * *

(53) On October 6, 1980, Indiana submitted revised opacity regulation 325 IAC 5–1. It replaces 1972 APC 3 for process sources, approved at Paragraph (b), and SIP 1974 APC 3 for combustion sources, approved in part at Subparagraph (c)(14). Indiana does not intend 325 IAC 5–1 to regulate the emission points in Lake County listed in Table 2 of 325 IAC 6–1–110.2 (Subparagraph (c)(57)). USEPA is disapproving 325 IAC 5–1 for these sources. Indiana does not intend 325 IAC 5–1 to regulate certain coke battery emission sources listed in 325 IAC 11–3 (Subparagraph (c)(42)). USEPA is disapproving 325 IAC 5–1 as it applies to the provisions of 325 IAC 11–3 which USEPA disapproved at (c)(42), i.e., pushing and quenching sources throughout the State and coke oven doors in Lake and Marion Counties. Additionally, Indiana has modified 325 IAC 5–1 as it applies to the stack emission points in Porter County listed at 325 IAC 6–6–4. USEPA disapproved 325 IAC 5–1 as it applies to these Porter County sources on February 5, 1987 (52 FR 3640). For those source categories where USEPA is disapproving 325 IAC 5–1, they remain regulated by the previously approved opacity SIP which consists of SIP 1974 APC 3 for combustion sources and 1972 APC 3 for process sources. Additionally, as long as the Bethlehem Steel Corporation No. 2 Coke Oven Battery Underfire Stack EVEL (Subparagraph (c)(49)) remains approved, it replaces 325 IAC 5–1.

* * * * *

(i) *Incorporation by reference.* (A) A letter dated October 6, 1980 from the State of Indiana Air Pollution Control Board and 325 IAC 5–1, Visible Emission Limitations, State promulgated on August 26, 1980.

(ii) *Additional material.* (A) February 12, 1985, letter from the Technical Secretary of the Air Pollution Control Board committing the State to make certain technical changes to 325 IAC 5–1.

* * * * *

3. Section 52.776 is amended by adding new paragraph (m) to read as follows:

§ 52.776 Control strategy: Particulate matter.

* * * * *

(m) The Indiana Part D TSP plan is disapproved insofar as it does not contain RACT level opacity limits for certain process fugitive sources in TSP nonattainment areas and, therefore, does not meet the requirements of section 172 of the Clean Air Act.

* * * * *

4. Section 52.794, Source surveillance, is amended by removing and reserving paragraph (b) and by revising paragraph (c) to read as follows:

§ 52.794 Source surveillance.

* * * * *

(b) [Reserved]

(c) 325 IAC 5–1 (October 6, 1980, submittal—§ 52.770(c)(53)) is disapproved for the Lake County sources specifically listed in Table 2 of 325 IAC 6–1–10.2 (§ 52.770(c)(57)); for pushing and quenching sources throughout the State (August 27, 1981,

325 IAC 11–3–2 (g) and (h)—§ 52.770(c)(42)); and for coke oven doors in Lake and Marion Counties (325 IAC 11–3–2(f)—§ 52.770(c)(42)). Applicability of this regulation to these sources is being disapproved because 325 IAC 5–1 does not meet the enforceability requirements of § 51.22 as it applies to these sources. Opacity limits in 325 IAC 6–1–10.2 and certain opacity limits in 325 IAC 11–3 supersede those in 325 IAC 5–1, and USEPA has previously disapproved these superseding regulations (§ 52.776 (j), (g), and (f), respectively).

[FR Doc. 87–13592 Filed 6–16–87; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 180

[PP 6F3309/R854; FRL–3218–2]

Pesticide Tolerance for Tralomethrin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide tralomethrin and its metabolites calculated as parent in or on the raw agricultural commodity soybeans. This regulation to establish the tolerance was requested pursuant to a petition by the American Hoechst Corp. acting as the registered U.S. agent for Roussel-Uclaf of Paris, France.

EFFECTIVE DATE: Effective on June 17, 1987.

ADDRESS: Written objections, identified by the document control number [PP 6F3309/R854], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

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

Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–557–2400.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of July 16, 1986 (51 FR 25721), and corrected in the **Federal Register** of August 6, 1986 (51 FR 28249), which announced that American Hoescht Corp., Rte. 202–206, North Somerville, NJ 08876, acting as the registered U.S. agent for Roussel-Uclaf, 163 Ave. Ganbetta, 750 Paris, France, had submitted pesticide petition (PP) 6F3309, to EPA proposing to amend 40 CFR Part 180 by establishing a tolerance for residues of the insecticide tralomethrin [(1*R*, 3*S*)3[1′*RS*)(1′,2′,2′,2′-tetrabromoethyl)]-2,2-dimethylcyclopropanecarboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester]) and its metabolites (*S*)-alpha-cyano-3-phenoxybenzyl (1*R*,3*R*)-*cis,trans*-2,2-dimethyl-3-(2,2-dibromovinyl) cyclopropanecarboxylate calculated as parent, in or on the raw agricultural commodity soybeans at 0.02 part per million (ppm), and subsequently requested at 0.05 ppm. A section heading change and revision of the section's introductory text were also proposed.

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

The data submitted and other relevant material have been evaluated and discussed in the proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance will protect the public health and is established as set forth below.

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

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

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

Dated: June 4, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation continues to read as follows:

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

2. Section 180.422 is amended by revising the section heading and introductory text and by adding and alphabetically inserting the listing for soybeans, to read as follows:

§ 180.422 Tralomethrin; tolerances for residues.

Tolerances are established for the combined residues of the insecticide tralomethrin [(1*R*, 3*S*)3[(1′*RS*)(1′,2′,2′,2′-tetrabromoethyl)]-2,2-dimethylcyclopropanecarboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester and its major metabolites, (1*R*,3*R*)-3(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester and (1*R*, 3*R*)-3(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester in or on the following raw agricultural commodities:

Commodities	Parts per million
* * * * *	
Soybeans	0.05

[FR Doc. 87–13473 Filed 6–16–87; 8:45 am]
BILLING CODE 6560–50–M

Proposed Rules

Federal Register
Vol. 52, No. 116
Wednesday, June 17, 1987

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service—Schedule A Authority for Employment of Students

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Office of Personnel Management is proposing to revise the Schedule A excepted service appointing authority used by agencies to hire student assistants. These regulations would permit appointments under the authority to be made to positions outside the General Schedule. The current language of the authority provides only for appointment to General Schedule positions. However, some positions outside the General Schedule provide practical experience to supplement scientific or technical curricula. It was never intended that the authority should prohibit employment of students in such positions, as long as their employment otherwise meets the conditions prescribed in this authority.

DATE: Comments must be received on or before August 17, 1987.

ADDRESS: Written comments may be sent to Curtis J. Smith, Associate Director for Career Entry, Office of Personnel Management, Room 6F08, 1900 E Street, NW., Washington, DC .

FOR FURTHER INFORMATION CONTACT: Tracy E. Spencer, (202) 632–6817.

SUPPLEMENTARY INFORMATION: The Schedule A authority was established in 1949 for all agencies to use in appointing student assistants. Originally, the authority contained a monetary limit on the compensation that an appointee could receive during the year. In 1958, the authority was revised to set a maximum grade level of GS–7 for appointments under the authority and to replace the monetary limit with a compensation limit stated as a percentage of the grade in which a person was employed. Subsequently, the monetary limit was dropped and the service limit was set at 1,040 hours for a service year, but the grade level limit remained at GS–7.

Because the regulatory language of the authority speaks only of GS–7 and makes no provision for equivalent grades, the authority does not clearly permit appointments to positions outside the General Schedule. When the authority was established and revised, it was expected that student assistants would be appointed to positions in the General Schedule; and this has, in fact, been the case. Under the authority, the students must be employed to assist scientific, professional, or technical employees. Work of this type is generally classified in the General Schedule. However, there was no intent to prohibit employment of student assistants in positions outside the General Schedule when such employment otherwise met the conditions for use of the Schedule A authority.

The authority is intended to prohibit employment in routine work and, in fact, expressly prohibits employment in routine clerical jobs. The definition of scientific, professional, and technical employees has been broadened over the years to permit employment of student assistants in administrative as well as scientific occupations, but it has not been expanded to include the skilled trades. Employment of students in most wage grade positions would, therefore, be inappropriate.

A structured program in which the wage grade employment is an integral part of the students' engineering or scientific curriculum may, however, provide the type of experience envisioned when the Schedule A authority was established. Some wage grade jobs may also provide valuable hands-on experience for students who are just beginning their professional or technical curriculum and, thus, have not yet acquired the knowledges and skills needed for meaningful assignments in their fields. Federal agencies occasionally express interest in appointing students to wage grade jobs in such cases. As such appointments are within the intent of the Schedule A authority, the language of 5 CFR 213.3102(q) should refer to positions at GS–7 and below, or equivalent. However, to ensure that all positions filled under the liberalized language are of the type the authority was intended to cover, further revision is needed to prohibit routine trades and crafts employment.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only the procedures used to appoint certain employees in Federal agencies.

List of Subjects in 5 CFR Part 213

Government employees.

Office of Personnel Management.

James E. Colvard,

Deputy Director.

PART 213—[AMENDED]

Accordingly, OPM proposes to amend 5 CFR Part 213 as follows:

1. The authority citation for Part 213 is revised as set forth below; and, the authority citations following any sections in Part 213 are removed:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; Section 213.101 also issued under 5 U.S.C. 2103; Section 213.102 also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec 3(5); Section 213.3102 also issued under 5 U.S.C. 3301, 3302 (E.O. 12364, 47 FR 22931), 3307, and 8337(h).

2. In § 213.3102(q), the first and fourth sentences are revised to read as follows:

§ 213.3102 Entire executive civil service.

* * * * *

(q) Positions at grade GS–7, or equivalent, and below when appointees are to assist scientific, professional, or technical employees. * * * No one shall be employed under this provision in (i) routine clerical positions; (ii) routine trades and labor positions, unless such employment clearly relates to a scientific, professional, or technical curriculum; or (iii) in excess of 1040 working hours a year; except that the 1040 working-hours-a-year limitation shall not apply to positions at grade GS–4 and below that are established in

connection with associate degree cooperative education programs. * * * * * * * * *

[FR Doc. 87-13753 Filed 6-16-87; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 220

School Breakfast Program—Nutritional Improvements and Offer Versus Serve; Extension of Public Comment Period

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule; Notice of extension of public comment period.

SUMMARY: The proposed School Breakfast Program rule to revise the breakfast meal pattern to implement several provisions of the School Lunch and Child Nutrition Amendments of 1986, was published in the **Federal Register** (52 FR 12419) on April 16, 1987, with a 60-day coment period which closes on June 15, 1987. This Notice extends the public comment period to August 1, 1987. This extension will provide the public the opportunity to submit additional comments after being able to analyze the Breakfast Study report made available to the public May 27, 1987, which was the basis for the meal pattern revisions.

DATE: To be assured of consideration, comments must be received or postmarked on or before August 1, 1987.

ADDRESS: Comments should be sent to: Cynthia H. Ford, Chief, Technical Assistance Branch, Nutrition and Technical Services Divison, Food and Nutrition Service, United States Department of Agriculture, Alexandria , Virgina 22302.

FOR FURTHER INFORMATION CONTACT: Ms. Ford at the above address, or phone (703) 756-3556.

SUPPLEMENTARY INFORMATION: The Department published a proposed rule to revise the breakfast meal pattern for the School Breakfast Program. The rule proposed to require that cereal fortified to at least 25 percent of the United States Recommended Dietary Allowance for iron per 1 ounce or ¾ cup be offered daily in the School Breakfast Program. This rule also proposed to allow schools, at the discretion of the local School Food Authority, to permit students participating in the School Breakfast Program to refuse *one food item* of a four item breakfast that they do not intend to eat. To ensure the nutritional integrity of the breakfast, the rule proposed to limit the offer versus serve option to those schools offering an additional bread/bread alternate food item. The rule is expected to improve the nutritional quality of breakfasts offered under the program while maintaining local flexibility in meal service.

The proposed revisions were based on the results of a reanalysis of data from the National Evaluation of School Nutrition Programs as published under the study title, "The Dietary Impacts of the School Breakfast Program." As the report for this latter study only became available to the general public on May 27, 1987, some interested parties have requested that the Department extend the comment period. Additional time is needed to thoroughly review this Report and all aspects of the proposed rule in order to provide appropriate comments. Since the time between the availability of the study Report and the closing date for comments was brief, the Department believes that an extension for the comment period will best serve the public.

The Department will continue to accept comments postmarked on or before August 1, 1987. Commentors who have already submitted comments are welcome to submit additional recommendations if they wish to address new subjects or revise previous remarks. Otherwise, the comments previously submitted will be considered in the comment analysis.

The effective date of any changes in meal pattern requirements will take into account the customary purchasing cycles for schools and will allow a sufficient length of time before implementation.

Dated: June 11, 1987.

Anna Kondratas,

Administrator.

[FR Doc. 87-13782 Filed 6-16-87; 8:45 am]
BILLING CODE 3410-30-M

Food Safety and Inspection Service

9 CFR Parts 327 and 381

[Docket No. 86-002P]

Imported Product; Change in Refused Entry Procedures for Imported Elimination of Certain Sealing Requirement and Addition of Controlled Pre-stamping Provision

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service is proposing to amend the Federal meat inspection regulations to require that all consignments of product refused entry into the United States be permanently marked "U.S. Refused Entry." FSIS is also proposing to amend the Federal meat inspection regulations and the poultry products inspection regulations to provide for "controlled pre-stamping" under certain conditions and to delete a requirement that refused entry product moving with the United States be sealed with the official import seal. Permanent marking of refused entry product would facilitate keeping such product out of United States' commerce. The current sealing provision would no longer be required once product is permanently marked refused entry. Addition of the controlled pre-stamping provision would ease congestion at loading docks, reduce the chance of product spoilage, and lessen inspection time.

DATE: Comments must be received on or before: August 17, 1987.

ADDRESS: Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, Room 3812, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments, as provided by the Poultry Products Inspection Act, should be directed to Mr. Mark Manis, (202) 447-2953. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mark Manis, Director, Import Inspection Division, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-2953.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator of the Food Safety and Inspection Service has determined that this proposed rule is not a major rule under Executive Order 12291. The proposal would require permanent marking of refused entry product and would eliminate the sealing requirement for such product. Additionally, the proposal would allow controlled pre-stamping under certain conditions. These actions are expected to lessen inspection time for both the Agency and the importing industry, case congestion at loading docks, and provide wholesome, unadulterated products.

Effect on Small Entities

The Administrator of the Food Safety and Inspection Service has made an initial determination that this proposed rule would not have a significant economic impact on a substantial number of small entities as defined by

the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601). The proposal would require permanent marking of refused entry product and would eliminate the sealing requirement for such product. Additionally the proposal would reduce inspection time because the inspector will not be required to maintain visual control over the stamping process. Since only .51 percent of imported product was refused entry in fiscal year 1986, permanent marking of refused entry product is expected to have little or no impact on those small entities whose product may be refused entry. These actions are expected to ease the inspection burden on the Agency and the importing industry, ease congestion at loading docks, and provide wholesome, unadulterated products.

Paperwork Requirements

This proposed rule would require that establishments desiring to operate under the controlled stamping provision to apply for initial approval to the appropriate Import Field Office supervisor. This application would be in the form of a letter and would include certain information. Once approved for the controlled stamping provision, the establishment would be required to maintain a daily log which contains information on the product(s) that is to be pre-stamped. Specific information requirements for the application and the log are outlined in the regulations. These application and recordkeeping requirements have been submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent in duplicate to the Policy Office. Please include the docket number which appears in the heading of this document. Any person desiring an opportunity for oral presentation of views should make such request to Mr. Manis so that arrangments can be made for such views to be presented. A transcript will be made for all views orally presented. All comments submitted in response to the proposal will be available for public inspection in the Policy Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

On August 19, 1982, FSIS published an interim rule (47 FR 36109), effective immediately, that established new procedures for handling imported product to decrease the likelihood that "refused entry" meat and meat food products and poultry products would enter into United States' commerce. Among the actions taken in the interim rule were prohibitions on (1) the application of the "U.S. Inspected and Passed" markings on meat and meat food products and poultry products prior to final import inspection, also known as controlled stamping or pre-stamping; and (2) the movement of any refused entry product within the United States except under seal. In addition, this interim rule also required that all consignments of meat and meat food products refused entry be marked "U.S. Refused Entry."

On April 13, 1983, FSIS published a final rule (48 FR 15887) that implemented the above requirements with one exception. The final rule did not amend § 327.10(c) to require that all consignments of meat and meat food products refused entry be marked "U.S. Refused Entry." Prior to the August 1982, interim rule, containers of rejected product were identified by a label or temporary placard. Permanent marking of the individual product containers as "U.S. Refused Entry" was left to the discretion of the area supervisor. In the preamble to the final rule, the Agency indicated that the existing identification procedures were sufficient and stated that the Agency had not intended to require that each product container be permanently marked as "U.S. Refused Entry."

On April 28, 1985, responsibility and authority for import inspection activities were transferred from FSIS' Meat and Poultry Inspection Operations to its International Programs (IP). To assure an efficient and effective allocation of import inspection resources, IP reexamined policies and procedures in effect for import inspection to identify areas where improvements could be made while maintaining the same degree of public protection against adulterated or misbranded product.

Permanent Marking of Refused Entry Product

One of the first areas selected for review was the policy of identifying product with temporary placards placed on all containers of product that had been refused entry. These placards were removed once the product (1) was placed in its final shipping container prior to be being loaded onto a vessel, (2) had left the United States, (3) had been converted to animal food, or (4) had been destroyed. However, assuring proper disposition of refused entry product, which was identified with temporary placards, required labor-intensive supervision and control by Program inspectors. A Program employee or employees maintained control over the product until it was loaded on a vessel, had left the United States, was delivered to an animal food manufacturer, or was destroyed for human food purposes. Controlling the movement of refused entry product was also an activity that was performed on demand. This meant that inspectors generally had to interrupt normal inspection duties to meet an establishment's request to move refused entry product.

The Agency recently completed a study designed to compare, in terms of inspector hours expended, the costs of inspecting and passing lots of imported products to the costs of inspecting and controlling refused entry lots of imported products. In the 26 cases studied, the Agency found that the tasks involved in refusing entry take four times as long as the tasks required to inspect the lot. The study showed that, on the average, it takes approximately 1 hour to inspect and pass a lot, and approximately 4 hours to inspect and process a refused entry lot.

In August of 1985, 36 countries in the Western Hemisphere met at the Inter-American Conference on Food Protection and unanimously adopted one recommendation that pertained specifically to refused entry product:

> International food shipments rejected by an importing country because of noncompliance with safety requirements should not be reshipped to other countries, and a mechanism should be developed to quickly inform other countries of such shipments.

In addition, several Caribbean nations and Canada have asked the United States to ban the shipment of certain types of refused entry product to their countries. Permanent marking of refused entry product would alert importing countries of previously rejected product. FSIS is sympathetic to the needs of receiving countries for clear, unequivocal identification of United States refused entry product. Instances in which the previous history of such product has been concealed from the receiving country do not promote responsible trade in meat food products.

In 1982, the General Accounting Office (GAO) recommended in its audit of FSIS' import inspection program that FSIS should take action by "Requiring the stamping of all rejected products on each carton or carcass as 'U.S. Refused Entry'...."

FSIS believes that Customs' control over bonded carriers, in which refused entry product must be transported, coupled with permanent marking of

refused entry product would provide adequate safeguards to assure the proper disposition of this product. Therefore, to reflect current policy, FSIS is proposing to amend § 327.10(c) of the Federal meat inspection regulations (9 CFR 327.10(c)) to require that each packing unit of all consignments of meat or meat food products refused entry be marked "U.S. Refused Entry." This action will also make provisions for marking refused entry product in the Federal meat inspection regulations consistent with analogous provisions in the poultry products inspection regulations. (Please not that § 327.26 referenced in the revision to § 327.10 is the former § 312.5(b) which was recently transferred and redesignated. Also note that § 381.204 has been revised to include the former § 381.102 which was transferred to § 381.204. Notice of these changes was published in the October 24, 1986, issue of the **Federal Register** (51 FR 37705)).

Elimination of Sealing Requirement

In conjunction with permanent marking of product refused entry, FSIS is also proposing to remove the current sealing requirement contained in § 327.13(b) of the Federal meat inspection regulations (9 CFR 327.13(b)) and § 381.202(b) of the poultry products inspection regulations (9 CFR 381.202(b)). This requirement was promulgated as part of the August 1982 interim rule and April 1983 final rule. The requirement was intended to assure that refused entry product moving within the United States would not be diverted to human food channels. Technically, once product is refused entry, Customs is responsible for the movement of the product within the United States. In addition, such product must be transported in carriers which have been bonded by Customs. However, at the time of the Agency's interim and final rules, Customs did not have adequate resources to track the movement of refused entry product to assure its proper disposition. Therefore, FSIS assumed the responsibility of controlling the movement of this product and continues to assume this responsibility today. FSIS believes that the permanent marking of refused entry product, as proposed, would make sealing the product containers to maintain their identity unnecessary. Therefore, FSIS is proposing to delete this product sealing requirement. Documentation on the movement of all refused entry product will continue to be required by FSIS. This documentation, together with the permanent marking of the affected product containers, is sufficient to assure that the product will be shipped from the United States, delivered to an animal food manufacturer, or destroyed for human food purposes.

Controlled Stamping Provision

Another area selected for review by IP was the practice known as pre-stamping or controlled stamping, that is, placing the "U.S. Inspected and Passed" mark on imported product before import inspection had been completed. The mark was obliterated if the product did not ultimately pass inspection. This practice developed informally over the years as a convenience to importers in unloading shipments. However, FSIS prohibited the practice of pre-stamping imported products in the interim and final rules referenced previously. Pre-stamping reduced FSIS' control of imported product ultimately found to be adulterated or misbranded from entering domestic commerce. In 1982, the USDA Office of Inspector General (OIG) noted, and objected to, the policy of controlled stamping. Furthermore, the practice of pre-stamping product prior to the completion of inspection is not specifically provided for under the Federal Meat Inspection Act.

The decision to end pre-stamping was vigorously opposed by importers and was subsequently criticized by GAO. GAO noted in a June 1982 letter to the Agency that based on its discussions with FSIS officials, importers, and cold storage facility firms and based on observations "it appears that the elimination of pre-stamping is resulting in additional product handling by cold storage facility (service) employees, increased inspector time, congestion at cold storage facility loading docks, and, in some cases, may be adversely affecting the quality of the imported products." GAO also questioned whether FSIS, in tightening its controls over refused entry product, considered marking refused entry products as "U.S. Refused Entry" and if it was so considered, why did FSIS not implement this procedure rather than eliminating pre-stamping. GAO did state that it was aware of problems in controlling product that was pre-stamped as "inspected and passed" and subsequently refused entry, but felt that proper precautionary measures could be instituted to eliminate or minimize these problems.

Because of the intense criticism leveled at FSIS, an Agency task force was convened to review pre-stamping, and it proposed various controls under which pre-stamping might be reinstituted. The following control measures were proposed at that time: (1) Limiting controlled stamping to only those lots that will be inspected on the same day as stamping, (2) requiring that all product which receives controlled stamping remain at the establishment until import inspection occurs, (3) requiring inspection marks to be removed from containers refused entry on the day a refused entry determination is made (under FSIS' direct supervision (and, if overtime, on a reimbursable fee basis)), (4) denying controlled stamping to those lots required to be held at the establishment pending the receipt of laboratory results, (5) requiring the establishment to apply for permission from the Import Field Office (application signed by company official, acknowledging intent to comply), (6) requiring the establishment to reapply each year, (7) vesting local import inspection personnel with the authority to suspend controlled stamping on the spot. FSIS proposes to amend §§ 327.10 and 381.204 to include such measures to reinstitute controlled stamping. In addition, controlled stamping would only be provided at port of entry locations. U.S. Customs Service personnel have reviewed the proposed controls and have agreed to pursue any violation of the control provisions by lifting the Customs' bond in effect on the product.

Additionally some minor language changes have been made in §§ 381.202 and 381.204 to conform to the Federal meat inspection regulations.

For the reasons discussed in the preamble, FSIS is proposing to amend Part 327 of the Federal meat inspection regulations and Part 381 of the poultry products inspection regulations as set forth below.

List of Subjects

9 CFR Part 327

Imported product, Meat inspection.

9 CFR Part 381

Imported product, Poultry inspection.

PART 327—[AMENDED]

1. The authority citation for Part 327 (9 CFR Part 327) is revised to read as follows:

Authority: 76 Stat. 663 (7 U.S.C. 450 *et seq.*), 34 Stat. 1260, 81 Stat. 584; as amended (21 U.S.C. 601 *et seq.*), 46 Stat. 689; (19 U.S.C. 1306), unless otherwise noted.

2. Paragraphs (b) and (c) of § 327.10 would be revised and a new paragraph (d) would be added to read as follows:

§ 327.10 Samples; inspection of consignments; refusal of entry; marking.

* * * * *

(b) The outside containers of all products offered for importation from any foreign country and accompanied with a foreign inspection certificate as required by this part, which, upon inspection by Program inspectors, are found not to be adulterated or misbranded and to be otherwise eligible for entry into the United States under this part, or the products themselves if not in containers, shall be marked with the official inspection legend prescribed in § 327.26. Such inspection legend shall be placed upon the containers or the products themselves only upon completion of official import inspection except as provided in paragraph (d) of this section.

(c) Product which is inspected and rejected shall be marked "U.S. Refused Entry" as shown in § 327.26(c). Such marks shall be applied to the shipping container or the product itself if not in a container.

(d) The inspection legend may be placed on containers of product before completion of official import inspection if the containers are being inspected by an import inspector who reports directly to an Import Field Office Supervisor; the product is not required to be held at the establishment pending the receipt of laboratory test results; and a written procedure for controlled stamping, submitted by the import establishment and approved by the Administrator, is on file at the import inspection facility where the inspection is to be performed.

(1) The written procedure for controlled pre-stamping should be in the form of a letter and shall include the following: (i) That stamping under this part will be limited to those lots of product which can be inspected on the day that certificates for the product are examined; (ii) that all product which has been pre-stamped will be stored in the facility where the import inspection will occur; (iii) that inspection marks applied under this part will be removed from any lot of product subsequently refused entry on the day the product is rejected; and (iv) that the establishment will maintain a daily stamping log containing the following information for each lot of product: The date of inspection, the country of origin, the foreign establishment number, the product name, the number of units, the shipping container marks, and the MP-410 number covering the product to be inspected. The daily stamping log must be retained by the establishment in accordance with the requirements of § 320.3.

(2) An establishment's controlled pre-stamping privilege may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that the establishment has failed to comply with the provisions of this part or any conditions imposed pursuant thereto. If the cancellation is oral, the decision and the reasons therefore shall be confirmed in writing, as promptly as circumstances allow. Any person whose controlled pre-stamping privilege has been cancelled may appeal the decision to the Administrator, in writing, within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the controlled pre-stamping privilege was wrongfully cancelled. The Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of practice concerning such a hearing will be adopted by the Administrator. The cancellation of the controlled pre-stamping privilege will be in effect until there is a final determination of the proceeding.

3. Paragraph (b) of § 327.13 would be revised to read as follows:

§ 327.13 Foreign products offered for importation; reporting of findings to customs; handling of articles refused entry.

* * * * *

(b) Upon the request of the Director of Customs at the port where a product is offered for clearance through the customs, the consignee of the product shall, at the consignee's own expense, immediately return to the Director any product which has been delivered to consignee under § 327.7 and subsequently designated "U.S. Refused Entry" or found in any respect not to comply with the requirements in this part.

* * * * *

PART 381—[AMENDED]

4. The authority citation for Part 381 continues to read as follows:

Authority: 71 Stat. 441, 82 Stat. 791, as amended, 21 U.S.C. 451 *et seq.*; 76 Stat. 663 (7 U.S.C. 450 *et seq.*), unless otherwise noted.

5. Paragraph (b) of § 381.202 would be revised to read as follows:

§ 381.202 Poultry products offered for entry; reporting of findings to Customs; handling of articles refused entry.

* * * * *

(b) Upon the request of the Director of Customs at the port where a product is offered for clearance through the customs, the consignee of the product shall, at the consignee's own expense, immediately return to the Director any product which has been delivered to consignee under this subpart and subsequently designated "U.S. Refused Entry" or found in any respect not to comply with the requirements in this subpart.

* * * * *

6. Section 381.204 would be amended by revising paragraph (a) and by adding a new paragraph (f) to read as follows:

§ 381.204 Marking of poultry products offered by entry; official import inspection marks and devices.

(a) The outside containers of all products offered by importation from any foreign country and accompanied with a foreign inspection certificate as required by this subpart, which, upon inspection by Program inspectors, are found not to be adultered or misbranded and to be otherwise eligible for entry into the United States under this subpart, shall be marked with the official inspection legend shown in paragraph (b) of this section. Such inspection legend shall be placed upon the containers only upon completion of official import inspection except as provided in paragraph (f) of this section.

* * * * *

(f) The inspection legend may be placed on containers of product before completion of official import inspection if the containers are being inspected by an import inspector who reports to an Import Field Office Supervisor; the product is not required to be held at the establishment pending the receipt of laboratory test results; and a written procedure for controlled stamping, submitted by the import establishment and approved by the Administrator, is on file at the import inspection facility where the inspection is to be performed.

(1) The written procedure for controlled pre-stamping should be in the form of a letter and shall include the following: (i) That stamping under this subpart will be limited to those lots of product which can be inspected on the day that certificates for the product are examined; (ii) that all product which has been pre-stamped will be stored in the facility where the import inspection will occurr; (iii) that inspection marks applied under this part will be removed from any lot of product subsequently refused entry on the day the product is rejected; and (iv) that the establishment will maintain a daily stamping log containing the following information for each lot of product: the date of inspection, the country of origin, the foreign establishment number, the product name, the number of units, the shipping container marks, and the MP-

410 number covering the product to be inspected. The daily stamping log must be retained by the establishment in accordance with the requirements of section 381.177.

(2) An establishment's controlled pre-stamping privilege may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that the establishment has failed to comply with the provisions of this subpart or any conditions imposed pursuant thereto. If the cancellation is oral, the decision and the reasons therefor shall be confirmed in writing, as promptly as circumstances allow. Any person whose controlled pre-stamping privilege has been cancelled may appeal the decision to the Administrator, in writing, within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the controlled pre-stamping was wrongfully cancelled. The Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of practice concerning such a hearing will be adopted by the Administrator. The cancellation of the controlled pre-stamping privilege will be in effect until there is a final determination in the proceeding.

Done at Washington, DC on: June 10, 1987.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 87-13783 Filed 6-16-87; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 3

[Docket No. 87-6]

Minimum Capital Ratios; Issuance of Directives

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (the Office or the OCC) proposes to issue guidelines establishing minimum risk-adjusted capital ratios for national banks. This change is being proposed because the current capital ratios fail to account for significant variations in the composition of assets and in the level and nature of off-balance-sheet activities among banks.

These guidelines, if adopted, would replace the current mandatory minimum capital-to-total assets ratios in assessments of bank capital adequacy. Prior to putting a risk-adjusted capital minimum into effect, however, changes to the Reports of Condition and Income would have to be made to collect the data necessary to compute banks' risk-adjusted ratios.

The actual minimum will not be determined until there is agreement among appropriate regulatory authorities on such technical matters as risk weights and asset categories and until necessary data are collected from the banking industry. Nonetheless, preliminary estimates of banks' risk-adjusted capital ratios indicate that a minimum adjusted capital ratio might be set between 5 and 7 percent.

Because many of the risks to which banks may be exposed are not measured by the risk-adjusted ratio, most national banks should maintain ratios in excess of the minimum. To provide banks with additional guidance in setting their individual capital levels, the Office also proposes to establish a benchmark ratio that it would view as adequate for a typical healthy institution with normal exposure to interest rate, funding, and other risks not explicitly included in the risk-adjusted ratio. Banks deemed to have inadequate capital would be given a reasonable amount of time to comply with the new guidelines.

DATE: Comments should be received on or before August 17, 1987.

ADDRESS: Comments should be sent to Docket No. 87-6, Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, SW., Washington, DC 20219, Attention: Lynnette Carter. Telephone: (202)447-1800. Comments will be available for inspection and photocopying at that address.

FOR FURTHER INFORMATION CONTACT: Ed Irmler, Economic Policy and Analysis Division, telephone (202)447-1924; Larry Senter, Commercial Examinations Division, telephone (202)447-1164 or Deborah Awai, Legal Advisory Services Division, telephone (202)447-1880, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Introduction

In March 1985, the OCC announced a regulation establishing required capital levels at national banks (50 FR 10207). This regulation, 12 CFR Part 3, set uniform capital standards for national banks based on ratios of primary and total capital to total assets.

The Office believes that a capital measure is needed that is more explicitly and systematically sensitive to the riskiness of bank activities than are the current capital-to-total assets ratios. As a result, the Office is proposing to establish risk-adjusted capital guidelines for assessing the capital adequacy of individual national banks. To provide greater flexibility in its application, the Office proposes to issue the risk-adjusted standard in the form of guidelines rather than as a regulation. The Office will review the guidelines periodically and may make adjustments to compensate for changes in the economy, financial markets, and banking practices.

The proposed guidelines would be made effective after appropriate changes to the Reports of Condition and Income could be made and data necessary to compute banks' adjusted capital ratios could be collected. At that time, these guidelines would replace the current capital regulation, 12 CFR Part 3.

Background

In March 1986, the Office published an Advance Notice of Proposed Rulemaking (ANPR) (51 FR 10602) describing a risk-adjusted capital standard intended to replace the current capital-to-assets standards in the assessment of bank capital adequacy. The risk-adjusted capital standard was intended to improve the bank capital adequacy policies of the Office in at least two ways. First, capital requirements would depend on the riskiness of bank assets and not just on overall asset size. Second, an explicit allocation of capital would be required for certain off-balance-sheet activities.

Summary of Comments

Most of the 72 commenters responding to the ANPR supported the principles of a risk-adjusted capital standard. Many expressed reservations, however, about particular aspects of the proposal. Most frequently, these reservations concerned the risk weights assigned to specific assets or off-balance-sheet items. Some commenters suggested, for example, that well-collateralized loans or loans with third party guarantees should be assigned a lower risk weight than unsecured loans. Many commenters also opposed the proposed treatment of claims on governments and banks of foreign countries. Differentiating among countries on the basis of the International Monetary Fund list of Industrial Market Economies was viewed as arbitrary. Further, it was

feared that the differential treatment of short-term claims on domestic and foreign financial institutions would disrupt the market for short-term, interbank funds.

Many commenters also questioned the scope of the suggested standard. Most opposed incorporating interest rate risk, funding risk, foreign exchange risk, asset concentrations, or problem assets explicitly into the calculation of the risk-adjusted capital ratio. They viewed such adjustments to the ratio as too complicated and suggested that those factors be assessed during examinations. There was no consensus among the commenters about whether the risk-adjusted capital ratio should serve as an examination guideline, be used in conjunction with current capital-to-total assets ratios, or replace current capital-to-total assets ratios in the assessment of bank capital adequacy.

The OCC Proposal

This notice of proposed rulemaking describes a revised risk-adjusted capital scheme. This proposal is based, in part, on comments received in response to the ANPR and on discussions with staff of the Federal Reserve Board (FRB) and the Federal Deposit Insurance Corporation (FDIC). In addition, discussions were held with the Bank of England (BOE), which, although it has used a risk asset ratio for a number of years, was studying modifications to its ratio similar to some of those being considered in the U.S.

The Use of Guidelines

The Office will use guidelines rather than a regulation to embody its minimum capital standard. This will allow the Office the benefit of working with national banks on capital adequacy matters rather than in dealing with them on a more rigid basis under a regulation. Guidelines give the Office flexibility to adjust capital requirements and definitions to changes in the economy, in financial markets and in banking practices. Flexible guidelines also permit the Office to take account of a bank's individual characteristics. Failure to meet the minimum capital levels should not automatically be construed as a violation of law, particularly since the Office considers capital adequacy in the context of a broad range of factors.

The U.S./U.K Proposal

As a result of these discussions, the U.S. bank regulatory agencies and the BOE announced their intent, in a January 8, 1987 news release, to request public comment on a risk-adjusted capital proposal. That proposal, entitled "Agreed Proposal of the United States Federal Banking Supervisory Authorities and the Bank of England on Primary Capital and Capital Adequacy Assessment" (U.S./U.K. Proposal), was described in an attachment to the news release. The U.S. and U.K. bank regulators emphasized that this action represented an important step not only toward making regulatory capital requirements more sensitive to risks, both on and off the balance sheet, but also in bringing the bank capital policies of the two countries into closer alignment. The U.S./U.K. Proposal was published by the FRB on February 19, 1987 at 52 FR 5135 through 5139.

For the purpose of calculating risk-weighted assets, the denominator of the ratio, bank assets are placed in one of five risk categories ranging from 0 to 100 percent. Assets placed in the 50 percent category require only half the capital of an asset placed in the 100 percent category. For practical reasons, the proposed risk categories do not attempt to capture all of the risks faced by banking institutions. The primary focus is on credit risk.

Off-balance-sheet items are assigned to risk categories through a two-step procedure. First, off-balance-sheet exposures are converted into on-balance-sheet credit equivalents. Second, the converted items are assigned to risk categories according to the same criteria as on-balance-sheet items.

Besides defining asset risk categories, the U.S./U.K. Proposal establishes a common definition of primary capital. Primary capital of U.S. banking organizations would continue to include, without limit,

- Common stockholder's equity,
- The reserve for loan losses, and
- Minority interests in consolidated subsidiaries.

Included in primary capital on a limited basis would be:

- Perpetual preferred stock,
- Long-term, limited-life preferred stock, and
- Debt instruments with provisions ensuring their permanence and ability to absorb losses.

Intangible assets and investments in unconsolidated subsidiaries would be deducted from primary capital (and assets) in assessing capital adequacy.

Differences Between OCC Proposal and U.S./U.K. Proposal

This proposal is generally consistent with the U.S./U.K. Proposal. During development of the U.S./U.K. proposal, however, this Office and the FDIC took exception to one aspect of the treatment of securities backed by the full faith and credit of the U.S. Government. As a partial proxy for interest rate risk, the FRB and BOE would require a higher allocation of capital against the long-term securities of the domestic government than against its short-term securities. The Office believes that making a maturity distinction for a single asset is an unreliable indicator of interest rate risk because it fails to account for the interest rate exposure arising from other assets, off-balance-sheet activities, and a bank's liability structure. As a consequence, the Office proposes Placing both short- and long-term U.S. Government securities in the same risk category.

Main Features of This Proposal

The remainder of this notice explains, in detail, the three principal features of the OCC's proposal. First, the proposed asset risk categories are summarized and the conversion of off-balance-sheet totals to credit-risk-equivalent values is described. Second, the proposed changes in the definition of primary capital are detailed, and transition rules are specified for items treated differently under the current and proposed definitions. Third, possible levels for a uniform minimum risk-adjusted ratio of primary capital to risk-weighted assets are identified. Most banks would be expected to operate with levels of capital well above the minimum because of their exposures to many different types of risk not incorporated in the risk-adjusted ratio.

Risk-Weighted Assets (the Denominator)

Treatment of Assets

Assets are placed in one of five risk categories for purposes of computing the risk-weighted asset base. The categories are defined in Table 1 and described below. Risk weights of 0, 10, 25, 50, and 100 percent are assigned to the respective categories.

Weight—0 percent. This category includes only cash (domestic and foreign) and all balances with Federal Reserve Banks.

Weight 10 percent. This category includes all direct claims on the U.S. Treasury and on U.S. Government agencies. U.S. Government agencies are defined as federal agencies with debt obligations explicitly backed by the full faith and credit of the U.S. Government.

Weight—25 percent. This category includes short-term claims (with remaining maturity of one year or less) on domestic depository institutions and all foreign banks (including foreign central banks), cash items in the process of collection, and Federal Reserve Bank

stock. Short-term claims on banks are distinguished from long-term claims in recognition of differences in the credit risk associated with each.

Portions of loans guaranteed by the U.S. Government or U.S. Government agencies and local currency claims on foreign central governments that can be offset against local currency liabilities in those countries are also included in this category. Claims on foreign central governments that cannot be offset against local currency liabilities expose banks to transfer risk and are assigned to the 100 percent weight category. No explicit distinctions among claims on foreign governments are made on the basis of the identity of the country involved.

The proposed treatment of claims on foreign banks differs in two respects from that described in the ANPR. First, foreign banks are assigned to the same risk category as U.S. banks. Second, no distinction is made among foreign banks based upon home country. The proposed treatment reflects a desire to facilitate the smooth and efficient functioning of interbank markets and a recognition of the fact that most governments have established supervisory frameworks and safety nets to support their banking systems.

The treatment of portions of loans fully collateralized by U.S. Government securities or by deposits in the lending institution also differs from the ANPR, which did not assign a lower risk weight to collateralized loans. By assigning a lower risk weight to some collateralized loans, this proposal reflects a recognition that high quality collateral can reduce a lender's exposure to credit risk.

Weight—50 percent. This category includes debt issued by U.S. Government-sponsored agencies and claims that are fully collateralized by U.S. Government-sponsored agency debt. Sponsored agencies are defined as agencies established or chartered by the federal government to serve public purposes specified by the U.S. Congress, but which have obligations that are not guaranteed by the full faith and credit of the U.S. Government.

This category also includes claims on multilateral development banks in which the U.S. is a shareholder or contributing member and general obligation claims of U.S., state and local governments. Debt obligations that are not backed by the full faith and credit of the state or local government, that is, state and local government revenue and industrial development bonds, are placed in the 100 percent weight category.

Weight—100 percent. This category includes all other bank assets. These include, but are not limited to, claims on domestic depository institutions and foreign banks with remaining maturity of more than one year; claims on nondepository financial institutions; claims on depository and nondepository financial institution holding companies; commercial and industrial loans and lease financing receivables; customers' liabilities on acceptances outstanding to standard risk obligors; loans to partnerships and individuals; loans secured by real estate; farm-related loans; and claims on private, non-bank, foreign obligors.

The BOE also assigns a risk weight of 100 percent to net open foreign exchange positions. As noted in the U.S./U.K. Proposal, the U.S. banking agencies will consider incorporating foreign exchange risk into the risk adjusted capital ratio in the future.

Treatment of Off-Balance-Sheet Items

For off-balance-sheet items, it is proposed that banks allocate capital against three activities:

- Commitments,
- Trading contingencies, and
- Direct credit substitutes.

The amount of capital to be held against these off-balance-sheet instruments is determined in two steps. First, the face value of an instrument is multiplied by a designated credit conversion factor, a fraction that determines the portion of the instrument that will be subject to a capital allocation. The credit conversion factors applied to each off-balance-sheet activities are described in Table 2. Second, the converted off-balance-sheet amount is assigned to a risk category according to the treatment a direct claim on the indicated customer would receive.

For example, commercial letters of credit are subject to a 50 percent credit conversion factor. Fifty percent of the face amount is treated like an on-balance-sheet exposure. That amount is then assigned to the same risk category as a direct loan to the account party. Other off-balance-sheet items are similarly assigned to risk asset categories depending upon the identity of the obligor. Off-balance-sheet instruments that are backed by collateral are converted to direct credit equivalents, which are weighted in the same way as direct extensions of credit backed by that collateral.

Commitments. Commitments, for risk-adjusted capital purposes, are defined as any arrangements that legally obligate a bank to purchase loans or securities, or extend credit in the form of loans or leases, participations in loans and leases, overdraft facilities, revolving credit or underwriting facilities, or similar transactions. Generally, commitments involve a written contract or agreement, or a commitment fee or some other form of consideration.

For the purpose of calculating the risk-adjusted capital ratio, the definition includes commitments that obligate the bank to extend credit to consumers or individuals in the form of retail credit card, check credit and overdraft facilities, home equity and mortgage lines, and other similar arrangements. Such consumer lines of credit are commitments to lend that may be exercised at the customer's option. Because they give rise to credit risk in the same manner as other types of commitments, they are included in the computation of the ratio.

The existence of a "material adverse change" (MAC) clause or similar provision does not by itself suggest that a lending arrangement is not a commitment. While a MAC clause may provide the issuing bank a means of avoiding its obligation to fund the commitment under certain circumstances, such commitments do involve some risk because a bank may fund the commitment before its customer's condition deteriorates or before the deterioration is recognized by the bank. Further, the extent of the protection afforded by a MAC clause is unclear.

Lending arrangements that are unconditionally cancellable at any time at the option of the bank would not be deemed to be commitments for risk asset purposes, provided that the bank, in fact, makes a separate credit decision based upon the borrower's current financial condition before each drawing under the lending facility. Unused credit card lines are to be included in the definition of commitments.

In the case of commitments structured as syndications, the risk asset framework includes only the bank's proportional share of such commitments. In addition, only the unused portion of commitments are treated as off-balance sheet items. Amounts that are already drawn and outstanding under a commitment appear on the balance sheet and such amounts, therefore, should not also be included as commitments for purposes of computing the risk-adjusted capital ratio.

The credit risk conversion factor for commitments is determined by the original maturity of the agreement. Maturity is defined as the earliest possible date that the bank can unconditionally cancel the commitment.

The proposed credit risk conversion factors are:

- 10 percent for commitments of one year and less,
- 25 percent for commitments of one to five years, and
- 50 percent for commitments exceeding five Years.

Trading Contingencies

Trading contingencies include commercial letters of credit, bid and performance bonds, and performance standby letters of credit. Commercial letters of credit are normally short-term and self-liquidating and, historically, have resulted in relatively small losses. Performance bonds and performance standby letters of credit guarantee routine commercial obligations or contracts. The credit risk conversion factor for trading contingencies is 50 percent.

Direct Credit Substitutes

Direct credit substitutes include financial guarantees and standby letters of credit backing financial obligations. These transactions typically arise when customers are unable to qualify for favorable loan terms on their own credit standing and seek a bank's credit standing to guarantee performance to third parties. When a bank issues a financial guarantee or a standby letter of credit, a third party relies on the bank's ability to honor the account party's obligation. Often that third party would not enter the underlying contract on such favorable terms if only the account party were liable.

The credit risk conversion factor for direct credit substitutes is 100 percent. This reflects the fact that the credit risk associated with these items is equivalent to the risks associated with a direct extension of credit to the account party. Once the facility is arranged, a bank has little or no opportunity to escape liability; and if called upon to fund the customer's liability, the probability of loss is high. Therefore, the bank has the same credit exposure to its customer that it would have had if it had made a direct loan.

Interest Rate and Cross-Currency Swaps

Banks' credit exposure on interest rate and foreign exchange rate contracts is not simply the notional principal amount of such contracts, but is also a function of interest and/or exchange rates. Conversion of the notional amount into a balance sheet equivalent measure of credit exposure is, therefore, complex. The FRB recently proposed a method for incorporating the credit risk associated with such instruments into the risk-adjusted capital ratio (see 52 FR 9304, March 24, 1987). The Office also intends to incorporate these instruments and, therefore, encourages interested parties to review the FRB proposal and solicits public comment on it.

Changes in the Definition of Primary Capital (the Numerator)

In addition to assigning risk weights to assets and converted off-balance-sheet items, the Office is proposing changes in the definition of primary capital. A distinction would be made between two classes of primary capital, base primary capital and limited primary capital. As a result, changes would be made involving the treatment of:

- Long-term debt,
- Perpetual preferred stock,
- Limited-life preferred stock,
- Intangible assets, and
- Investments in unconsolidated subsidiaries.

The proposed definition of primary capital is described in Table 3.

Base Primary Capital

The amount of base primary capital would not be subject to percentage limitations. Capital instruments regarded as base primary capital include:

- Common stockholders equity,
- Minority interests in the equity accounts of consolidated subsidiaries, and
- Allowance for loan and lease losses.

As discussed later, the Office is considering excluding the allowance for loan and lease losses from primary capital.

Limited Primary Capital

The Office proposes that three other capital instruments be included, subject to certain limits, in the definition of primary capital. The portion of these instruments that would qualify as primary capital would be limited to no more than 50 percent of base primary capital less booked intangible assets. These instruments, referred to as limited primary capital, include:

- Qualifying long-term debt,
- Perpetual preferred stock, and
- Limited-life preferred stock with an original maturity of more than 25 years.

Long-term Debt. In keeping with the U.S./U.K. Proposal, the Office is proposing new criteria for judging which long-term debt instruments could appropriately be included in primary capital. The criteria stipulate that the instruments must:

- Be unsecured and subordinated to deposits;
- Be convertible into, or redeemed with, only common stock or qualifying preferred stock;
- Be converted automatically to common stock or qualifying preferred stock if the total of undivided profits and surplus becomes negative; and
- Permit the bank to defer cash interest payments if it does not report a profit in the preceding period (defined as the combined profit for the most recent four quarters) and/or it eliminates cash dividends on all outstanding common and preferred shares.

These criteria are designed to ensure that such instruments are permanent, provide substantial loss-absorption capacity, and do not aggravate cash-flow problems during periods of financial adversity.

Mandatory convertible securities would no longer be included in primary capital unless they also satisfy these criteria. However, mandatory convertible securities that qualify as primary capital under the current regulation and are issued before the effective date of this proposal would be included as limited primary capital until they are converted into equity. Existing and new debt instruments that meet the above criteria, including, for the first time, perpetual debt instruments, would qualify as primary capital pursuant to the approval procedures set forth at 12 CFR 5.46 and 5.47.

Perpetual Preferred Stock. Currently, there is no limit to the amount of primary capital that a bank may maintain in the form of perpetual preferred stock. This proposal limits the amount of perpetual preferred stock that could be counted as primary capital. The Office believes that excessive reliance on preferred stock could limit dividend-payout flexibility during periods of serious and protracted earnings weakness.

Limited-life Preferred Stock. Limited-life preferred stock is presently treated as secondary capital. The Office proposes that limited-life preferred stock with an original maturity of more than 25 years be treated as limited primary capital.

Because the contribution made by such limited-life instruments to permanent capital declines over time, the Office proposes to reduce the original issue amount by 20 percent in each of the last five years before maturity. Thus, 80 percent of the issue amount would be included in limited primary capital if the remaining life were between four and five years, 60 percent would be included if the remaining life were between three and four years, and so on. None would be

included if the remaining maturity were one year or less.

Deductions from Primary Capital

Intangible Assets. The Office proposes that all intangible assets be deducted from base primary capital and, for purposes of calculating the risk-adjusted capital ratio, from the denominator of the ratio, as well. Mortgage servicing rights acquired before the effective date of this proposal and the remaining amounts of other intangibles that are now authorized would continue to be included in primary capital under a "grandfather provision," provided that they are amortized over their useful lives or 15 years, whichever is shorter. This change reflects the view that the value of mortgage servicing rights is not assured over time and conforms OCC practice to that of other regulatory authorities.

Investments in Unconsolidated Subsidiaries. This proposal requires banks to deduct equity investments in all unconsolidated subsidiaries and affiliated companies from primary capital, and from the denominator of the risk-adjusted ratio. Investments in unconsolidated subsidiaries and affiliates are deducted because they are "off-balance-sheet assets." Additionally, the Office may deduct investments in other subsidiaries, on a case-by-case basis. Examples include consolidated subsidiaries engaged in relatively risky activities and special-purpose financing subsidiaries that do not lend capital support to the parent bank.

Interbank Holdings of Capital Instruments. Consistent with the U.S./U.K. Proposal, interbank holdings of primary capital instruments may be deducted from capital on a case-by-case basis. This deduction avoids double counting of capital within the banking system and prevents undue systemic interdependence for capital funds. The effect of this provision on national banks would be limited, because they already are prohibited from making direct investments in equity instruments, by 12 U.S.C. 24(7), and in securities that convert into equity either automatically or at the issuer's option, by 12 CFR 1.10. This deduction does not apply to holdings of capital instruments acquired or taken in satisfaction of debts previously contracted.

Loan Loss Reserves

From an accrual accounting standpoint, loan loss reserves are established and maintained to protect banks against losses that are inherent in their current portfolio, but that have not as yet been linked to specific loans and, therefore, charged off. Under these circumstances, loan loss reserves are not available to absorb unexpected losses, and their inclusion in primary capital is arguable.

The Office believes that consideration should be given to excluding loan loss reserves from primary capital in the future. If the loan loss reserves are excluded from primary capital, it is likely that the required minimum level of the risk-adjusted capital ratio would also be reduced.

The Minimum Risk-Adjusted Capital Ratio

The Office proposes that a uniform minimum risk-adjusted capital ratio be established as a guideline. That guideline would be applied to all national banks and would become effective once appropriate changes to the Reports of Condition and Income could be made and the data necessary to compute adjusted capital ratios collected.

The actual level of the minimum cannot be determined until the final weights and asset categories are agreed upon by the U.S. and U.K. bank regulatory agencies and more accurate data are collected from the banking industry. Nonetheless, it is possible to provide a potential range in which the minimum might fall. Based on preliminary estimates of banks' risk-adjusted capital ratios and the currently proposed categories, the minimum risk-adjusted capital ratio might be set between five and seven percent.

Preliminary estimates indicate that most national banks would meet or exceed a minimum in that range. Table 4 shows the distribution of estimated risk-adjusted capital ratios at national banks as of the second quarter of 1986. Of the 4,720 banks evaluated, 55 were estimated to have risk-adjusted capital ratios below six percent.

Consideration of the risk-adjusted ratio would be only one step in the overall evaluation of a bank's capital strength. Whether a particular bank's capital is adequate depends on a number of other factors, including:

- Its exposure to interest rate, financing, transfer, or similar risks;
- The diversity and quality of the asset portfolio;
- The quality, trend, and variability of earnings;
- The level of liquid assets relative to short-term liabilities;
- The nature and extent of off-balance-sheet activities that have not been incorporated into the ratio;
- The ability of the bank's management to monitor and control risks; and
- The activities or condition of the bank's parent, affiliates, or other persons or institutions with which it has significant business relationships.

To protect against these additional sources of risk, it is expected that most banks should maintain risk-adjusted ratios above the minimum. Indeed, only banks with negligible exposure to risks of the sort listed above would be permitted to operate near the minimum ratio.

To assist bank management in determining what the Office would view as an acceptable level of capital for banks with exposure to these other sources of risk, the Office also proposes to establish a "benchmark ratio." This benchmark ratio would be viewed as an adequate risk-adjusted capital ratio for a typical healthy institution with normal exposure to interest rate, funding, and other risks. It would, therefore, be higher than the proposed minimum ratio.

Based on available data, the benchmark ratio might be set at a value between seven and ten percent. As shown in Table 4, the estimated risk-adjusted ratios of most banks would exceed a benchmark ratio set in that range. This approach would be consistent with the existing capital requirements, which most banks exceed by substantial amounts. On the basis of available data and the proposed risk weights and asset categories, approximately 95 percent of all national banks presently have adjusted ratios of at least seven percent; more than 75 percent of all national banks presently have estimated risk-adjusted capital ratios of at least ten percent.

Banks wishing to operate with risk-adjusted capital ratios below the benchmark would be required to establish, during the examination process, that they have lower than average risk characteristics. In determining whether a bank qualifies to operate below the benchmark, the Office would pay particular attention to the other sources of risk listed above. Capital ratios above the benchmark may be required for an individual bank when, in view of the bank's circumstances, the Office believes the bank's capital is or may become inadequate.

As set forth in Subpart C of Part 3, concerning the establishment of individual minimum capital ratios, a bank with a risk-adjusted capital ratio below what the Office considers to be adequate will be given written notice indicating the ratio that the Office believes to be appropriate for the bank and an adequate opportunity to respond. After considering the bank's response,

the Office will advise the bank whether a higher risk-adjusted ratio is required of it and when that ratio must be achieved. The Office also may require the bank to submit an acceptable plan to achieve the required capital ratio established for it. Other remedies are prescribed in Subparts D and E of Part 3.

It is not the intention of this Office to set the minimum risk-adjusted capital ratio at a level that would increase the aggregate level of primary capital in the banking industry. While individual national banks may be required to raise additional capital as part of the Office's ongoing supervisory efforts, such a decision will continue to be based on an overall assessment, during the examination process, of each bank's financial condition and risk exposure. It is not contemplated that higher capital requirements will be imposed on individual banks solely on the basis of the application of the proposed risk-adjusted capital formula.

Issues for Comment

Interested parties are encouraged to comment on any aspect of this notice. The Office is particularly interested, however, in receiving comments on the following issues.

1. Replacement of the Existing Capital Standards

The Office currently anticipates that it will eventually rely on the risk-adjusted capital ratio in enforcing minimum capital requirements. The Office believes that capital standards should take account of differences in risk among banks, both on and off their balance sheets. The current capital-to-total assets ratios fail to incorporate these distinctions in setting minimum required levels of capital at banks. Therefore, once adequate information is obtained to implement the risk-adjusted capital guideline, Appendix A will supplant Subpart B of Part 3. The Office requests comments on whether compliance with the current minimum primary and total capital-to-total assets ratios should continue to be required, even if the proposed risk-adjusted primary capital standard is adopted.

2. Risk Categorization of Claims on the U.S. Government

In this proposal, all direct claims on the U.S. Government would be accorded a 10 percent risk weight, regardless of their maturity. In contrast to this proposal, the FRB has proposed assigning weights of 10 percent to short-term direct claims on the U.S. Government and 25 percent on long-term claims.

The OCC believes that making a maturity distinction among claims on the U.S. Government is not a meaningful way of incorporating interest rate risk. Not only does such a distinction ignore portfolio considerations, it may require an extra increment of capital at banks with long-term government securities in their portfolio, but no interest rate exposure.

Although the FRB acknowledges that interest rate risk can be measured only on a portfolio basis, it makes the maturity distinction to take limited account of interest rate risk until a more systematic means of incorporating it into the risk-adjusted ratio can be developed. Under the OCC approach, analysis of bank exposure to interest rate risk and its implications for capital adequacy would continue to be conducted on a bank-by-bank basis. The Office requests comments on the appropriate risk categorization of claims on the U.S. Government and its agencies.

3. Treatment of Trading Account Assets

The Office's March 1986 ANPR assigned all assets in the trading account to the 30 percent risk category. The present proposal assigns trading account assets to risk categories according to the same criteria that would be used if those assets were in the investment account.

Under the present proposal, many of the assets currently in bank trading accounts (e.g., U.S. Government securities, short-term obligations of banks, and general obligations of municipalities) are assigned risk weights well below the 100 percent weight that is implicit in the existing capital standard. Nonetheless, the Office recognizes that as banks become involved in trading a wider range of non-government securities, it may be desirable to recognize explicitly that, because of their ready marketability and the fact that they are marked to market on a frequent basis, such trading securities may have different risk characteristics than similar assets held for investment purposes.

The Office, therefore, requests comment on whether trading account assets should be incorporated into the risk-adjusted capital ratio in a lower risk category than assets held for investment purposes, and, if so, how this might be done. If trading account assets were to be treated differently than assets in the investment account, how should they be defined to distinguish them from assets held for investment purposes?

4. Treatment of Contingencies and Commitments

The Office believes that incorporating off-balance-sheet activities explicitly into the calculation of capital ratios will improve the assessment of bank capital adequacy. Questions remain, however, regarding the amount of capital that should be allocated against each of the off-balance-sheet items included in the proposal.

In this proposal, distinctions are made among commitments, trading contingencies, and direct credit substitutes. Further distinctions are made among commitments according to their original maturity. Some of these distinctions may result in substantial differences in the amount of capital an institution would allocate to different instruments. Do the weights accurately reflect actual differences among the various instruments? For example, there are strong similarities between a standby letter of credit backing a commercial paper issue and a note issuance facility (NIF), yet the proposal specifies a credit conversion factor for the standby letter that is twice as large as that for the NIF.

This treatment applies greater precision to the assignment of risk weights than has been proposed for direct extensions of credit. For example, all corporate loans are assigned risk weights of 100 percent regardless of their purpose or maturity. By contrast, the weights assigned to off-balance-sheet items depend, as the above example shows, on the purpose or maturity of the instrument.

The Office requests comments concerning the proposed distinctions among various off-balance-sheet instruments. Specifically, comments are requested concerning alternative ways of incorporating off-balance-sheet instruments into the risk-adjusted ratio.

5. Defining the Maturity of Commitments

The credit conversion factors for commitments, including overdraft facilities, revolving credit facilities, NIFs, and commercial and consumer lines of credit, are determined by the original maturity of the commitment. Maturity, for this purpose, is defined as the earliest date on which the bank can, at its option, unconditionally cancel its commitment to the obligor.

The definition of the maturity of commitments, particularly in connection with revolving credit facilities, raises some question, however. Such arrangements typically entail (i) a commitment period during which the borrower has access to a revolving

credit facility, and (ii) conversion of the outstanding balance to a term loan at a specified future date. Thus, the maturity of such commitments could be defined in terms of the life of the revolving credit facility only, or in terms of the combined lives of the revolving credit facility and the term loan. The Office seeks comment on the appropriate way to define the maturity of commitments.

6. Treatment of the Allowance for Loan and Lease Losses

This proposal suggests changing the definition of primary capital. The allowance for loan and lease losses (ALLL), however, would continue to be included in primary capital.

Because the ALLL is established to provide protection against losses which bank management has reason to believe are inherent in the portfolio, it is not available to absorb unexpected losses. For this reason, consideration is given to excluding the ALLL from the definition of primary capital. As described, if it were excluded from primary capital, the minimum risk-adjusted capital ratio would be reduced accordingly.

In response to the ANPR, several commenters stated that some banks voluntarily include in their ALLL an extra prudential amount that may place their reserves substantially in excess of the losses inherent in their loan portfolios. The commenters argued that it would be unfair to penalize such conservative behavior by removing the ALLL from primary capital.

This Office recognizes that such prudential buffers do provide protection against unexpected losses and, therefore, should be included in primary capital. It is expected, however, that if the definition of capital were changed to exclude the ALLL, any buffer that had been included in it could be shifted to retained earnings and qualify as primary capital. The Office would have no objection to that practice, provided the ALLL was maintained at a level adequate to cover losses in the loan portfolio. Bank management would continue to be responsible for determining that level.

The Office requests comments concerning the elimination of the ALLL from the definition of primary capital. Further, comments are requested concerning the size of the appropriate reduction in the minimum and benchmark ratios if such an action were taken. Loan loss reserves as a percentage of assets at the average bank are presently estimated as 50 to 70 basis points.

A possible alternative to removing the ALLL from the definition of primary capital entirely would be to limit the proportion of primary capital composed of the ALLL. At present, the median ratio of ALLL to primary capital among national banks is eight percent.

7. Treatment of Loans Sold With Recourse

Under the existing capital standard, banks are required to retain on their balance sheets the full amount of loans sold with recourse. Such loans, therefore, require full capital support, even if the liability retained by the selling bank is limited to a fraction of the amount sold. (*E.g.*, a bank with recourse limited to two percent of loans sold is required to have primary capital equivalent to at least 5½ percent of the loans.) The present proposal retains that treatment.

Given that the purpose of the risk-adjusted capital proposal is to relate primary capital to a measure of assets and off-balance-sheet items more accurately reflective of bank credit risk, the Office requests comment on whether the treatment of loans sold with recourse should be modified to account for such cases of limited liability.

8. Role of a Risk-Adjusted Total Capital Ratio

In responding to the ANPR, some commenters called for greater emphasis on the measurement of risk relative to total, rather than primary, capital. Reasons cited were that secondary capital offers added loss protection to the FDIC insurance fund and large depositors, that it enhances bank liquidity, and that it costs less than primary capital.

The Office requests comment on whether, in addition to the proposed risk-adjusted primary capital ratio, it should also establish guideline ratios for total capital to risk-weighted assets.

9. Disclosure of Capital Requirements of Individual Banks

A bank's individual minimum risk-adjusted capital ratio would be based on a number of supervisory considerations involving data that are not publicly available. This proposal contemplates that minimum risk-adjusted capital requirements for individual banks would continue to remain confidential.

The Office requests comment on whether individual banks' minimum required risk-adjusted capital ratios should be made public.

10. Treatment of Federal Branches and Agencies of Foreign Banks

Under this proposal, the risk-adjusted capital standard would not be applied to the federal branches and agencies of foreign banks because under 12 U.S.C. 3102(g) and Part 28 of this chapter, they are required to maintain capital equivalency deposits, which at a minimum, must equal 5% of liabilities with certain adjustments.

The Office requests comments on whether federal branches and agencies of foreign banks should be subject to an analogous risk-adjusted approach. Should a risk-adjusted approach be adopted for determining the minimum size of the capital equivalency deposits of federal branches and agencies? If so, how should a risk-adjusted approach be implemented for that purpose?

Table 1.—Summary of Proposed Risk Weights and Risk Categories for National Banks

0 Percent

Cash—domestic and foreign (U.S. dollar equivalent)
Claims on Federal Reserve Banks

10 Percent

All claims on the U.S. Government and its Agencies

25 Percent

Cash items in process of collection
Short-term claims on domestic depository institutions and foreign banks
Claims (including repurchase agreements) fully collateralized by cash or U.S. Government or Agency debt
Claims guaranteed by the U.S. Government or its Agencies
Local currency claims on foreign central governments to the extent that bank has local currency liabilities
Federal Reserve Bank stock

50 Percent

Claims on U.S. Government-sponsored Agencies
Claims (including repurchase agreements) fully collateralized by U.S. Government-sponsored Agency debt
General obligation claims on states, counties and municipalities
Claims on multinational development institutions in which the U.S. is a shareholder or contributing member

100 Percent

All other assets not specified above, including:
Claims on private entities and individuals
Long-term claims on domestic depository institutions and foreign banks
Claims on all foreign private sector borrowers

Table 2.—Summary of Proposed Conversion Factors for Off-Balance-Sheet Items

Direct credit substitutes (financial guarantees and standby letters of credit serving the same purpose)—100 percent credit conversion factor.

Trade-related contingencies (commercial letters of credit, bid and performance bonds and performance standby letters of credit)—50 percent credit conversion factor.

Sale and repurchase agreements and asset sales with recourse, if not already included on the balance sheet—100 percent credit conversion factor.

Other commitments, including overdraft facilities, revolving underwriting facilities (RUFs/NIFs), underwriting commitments, and commercial and consumer credit lines. The credit conversion factors are:

10 percent—one year and less original maturity [1]

25 percent—over one to five years original maturity

50 percent—over five years original maturity.

Credit conversion factors yet to be determined for:

Interest rate swaps and other interest rate contracts.

Foreign exchange rate contracts.

Table 3.—Proposed Definition of Primary Capital for National Banks

I. Base primary capital—funds included without limit:

—Common stockholders' equity (including surplus and retained earnings)

—Minority interests in equity accounts of consolidated subsidiaries

—Allowance for loan and lease losses

II. Limited Primary capital—items included in this category may not exceed 50 percent of base primary capital less intangible assets:

—Perpetual preferred stock

—Long-term (25 years or more) limited-life preferred stock (amount included in primary capital discounted as instrument approaches maturity)

—Debt that is subordinated to depositors, that can only be redeemed with or converted into primary capital instruments, that can absorb losses, and on which interest can be deferred under certain circumstances. (Debt instruments that are currently included in primary capital, including mandatory convertible securities, but that do not meet these conditions would be grandfathered.)

III. Adjustments to primary capital:

—Deduction of intangible assets (existing intangibles to be grandfathered)

—Deduction of investments in unconsolidated subsidiaries, joint ventures and certain consolidated subsidiaries

—Monitoring and possible deduction on a case-by-case basis of holdings of capital instruments issued by other banking organizations

TABLE 4.—BANKS WITH RISK-ADJUSTED CAPITAL RATIOS BELOW VARIOUS LEVELS

[National Banks as of June 30, 1986]

Risk-adjusted capital ratio (percent)	No. of banks below ratio
5	31
6	55
7	127
8	316
9	639
10	1,056

Source: Reports of Condition and OCC estimates.

Technical Comporting Changes

Upon adoption of Appendix A, the Office will make technical comporting changes to Subparts A, C, D, and E.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Comptroller certifies that this proposal, if adopted, will not have a substantial economic impact on a significant number of small entities.

Executive Order 12291

The proposal, if adopted, would not constitute a "major rule" and, therefore, does not require the preparation of a preliminary regulatory impact analysis.

List of Subjects in 12 CFR Part 3

National banks, Capital, Risk.

Authority and Issuance

For the reasons set forth in the preamble, Part 3 of Chapter I of Title 12 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for 12 CFR Part 3 continues to read as follows:

Authority: 12 U.S.C. 1, *et seq.;* 12 U.S.C. 93a, 161, 1818; and 12 U.S.C. 3907 and 3909.

2. The title to 12 CFR Part 3 is revised to read as follows:

PART 3—CAPITAL MAINTENANCE; ISSUANCE OF DIRECTIVES

3. Section 3.5 is revised to read as follows:

§ 3.5 Note.

There are no universal mandatory minimum capital ratios. See Appendix A to this Part for the risk-adjusted capital guidelines, which the Office has established for bank management and the agency to use in assessing a bank's capital adequacy.

§§ 3.6, 3.7, 3.8 [Removed]

4. Sections 3.6, 3.7 and 3.8 are removed.

5. A new Appendix A is added to Part 3 after INTERPRETATIONS § 3.100 to read as follows:

Appendix A—Risk-Adjusted Capital Guidelines

Section 1. Purpose and Applicability of Guidelines

(a) *Purpose.* One of the Office's most important functions is to evaluate the adequacy of capital held by each bank. This evaluation involves the consideration of numerous factors, one of which is the bank's risk-adjusted capital ratio. This ratio is more systematically sensitive to the riskiness of bank activities than is the capital-to-total asset ratio. The purpose of these guidelines is to explain how the risk-adjusted capital ratio is determined. The Office will review the guidelines periodically for possible adjustments commensurate with changes in the economy, financial markets and banking practices.

(b) *Applicability.* (1) The risk-adjusted capital ratio derived from these guidelines is an important factor in the Office's evaluation of a bank's capital adequacy. A bank with a low risk-adjusted capital ratio may be subject to special scrutiny to determine the adequacy of the bank's capital position.

(2) The guidelines are for the use of all national banks but not for federal branches and agencies of foreign banks because they are subject to capital equivalency deposit requirements in 12 U.S.C. 3102(g) and Part 28 of this chapter.

Section 2. Risk-adjusted capital ratio

(a) *Risk-adjusted capital ratio.* (1) The Office believes that national banks should maintain a minimum risk-adjusted capital ratio of _____percent.

(2) The risk-adjusted capital ratio is only one factor reflective of a bank's capital strength. Other factors are:

(i) Its exposure to interest rate, funding, transfer, or similar risks,

(ii) The diversity and quality of the asset portfolio,

(iii) The quality, trend, and variability of earnings,

(iv) The level of liquid assets relative to short-term liabilities,

(v) The nature and extent of off-balance-sheet activities that have not been incorporated into the ratio,

(vi) The ability of bank management to monitor and control risks, and

(vii) The activities or condition of the bank's parent, affiliates, or other persons or

[1] Maturity is the stated maturity date or the earliest possible date that the bank may *unconditionally* cancel the commitment, whichever comes first.

institutions with which it has significant business relationships.

(3) Accordingly, the Office believes that most banks should maintain risk-adjusted capital ratios above the minimum.

(b) *Benchmark risk-adjusted capital ratio.* (1) To assist management in determining an appropriate risk-adjusted capital ratio for a bank with exposure to these other sources of risk, the Office has established a benchmark ratio of ___ percent. The benchmark ratio reflects an adequate risk-adjusted capital ratio for a typical healthy institution with normal exposure to interest rate, funding and other risks. It is therefore higher than the minimum risk-adjusted capital ratio.

(2) A bank with a risk-adjusted capital ratio below the benchmark should determine that it has lower than average risk characteristics. This determination will be reviewed during the examination process. Other sources of risk, including, but not limited to, those listed in paragraph (a)(2) of this section, are important to this determination. Capital ratios above the benchmark may be required for an individual bank when the Office believes the bank's capital is or may become inadequate in view of its circumstances.

(c) *Individual minimum risk-adjusted capital ratios.* In accordance with the procedures in Subpart C of this Part, the Office may require a bank to maintain a risk-adjusted capital ratio in excess of those discussed in paragraphs (a) and (b) of this section. As set forth in greater detail in that Subpart, the Office would give written notice to a bank with a less than adequate risk-adjusted capital ratio, indicate the ratio it believes appropriate for that bank and provide an adequate opportunity for the bank to respond. The Office will advise the bank whether a higher risk-adjusted ratio is required of it and when it must be achieved. The Office also may require the bank to submit and adhere to an acceptable plan to achieve the required capital ratio established for it.

Section 3. Components of primary capital

The components of adjusted primary capital are:

(a) Base primary capital, which includes:

(1) Common stock,

(2) Capital surplus,

(3) Undivided profits,

(4) Reserves for contingencies and other capital reserves (excluding accrued dividends on perpetual and limited life preferred stock),

(5) Minority interest in consolidated subsidiaries,

(6) Allowances for loan and lease losses, and

(b) limited primary capital, which, in the aggregate, is limited to no more than 50 percent of base primary capital less all intangibles, and includes:

(1) Perpetual preferred stock,

(2) Limited life preferred stock with an original maturity of at least 25 years (the original issue amount of the instrument will be reduced by 20% in each of the last five years before maturity), and

(3) Long-term debt that is unsecured and subordinated to depositors; that can only be redeemed with or converted into common stock or qualifying preferred stock; that can absorb losses by automatic conversion into equity if the total of undivided profits and surplus becomes negative; and on which interest can be deferred if the issuer does not report a profit in the preceding period (defined as the combined profit for the most recent four quarters) and/or the issuer eliminates cash dividends on all outstanding common and preferred shares.

Section 4. Computation of the Risk-Adjusted Capital Ratio

(a) *Formula for computation.* The risk-adjusted capital ratio is calculated by applying to each broad category of assets or off-balance-sheet items a weight reflecting the relative riskiness inherent in each. The adjusted primary capital base (the numerator) is then divided by the risk-adjusted assets (the denominator) to derive a ratio expressed as a percentage.

(b) *Computation of primary capital (the numerator).* To compute primary capital, base and limited primary capital components are summed and then adjusted by deducting intangible assets and equity investments in unconsolidated subsidiaries and affiliated companies. Investments in other subsidiaries may be deducted from primary capital because they are off-balance-sheet items. Additionally, interbank holdings of capital instruments may be deducted from primary capital because this deduction avoids double counting of capital within the banking system and prevents undue systemic interdependence for capital funds.

(c) *Transitional rules.* (1) Mandatory convertible securities are not included in primary capital unless they satisfy the criteria in § 3(b)(3) for including debt instruments in primary capital. However, mandatory convertible securities that qualify as primary capital under the current regulation and were issued before the effective date of this guideline may be included as limited primary capital until they are converted into equity.

(2) Existing and new debt instruments that meet the criteria in section 3(b)(3), including, for the first time, perpetual debt instruments, would qualify as primary capital pursuant to the approval procedures set forth in §§ 5.46 and 5.47 of this chapter.

(3) Intangible assets (other than mortgage servicing rights) purchased prior to March 14, 1985, and accounted for in accordance with the instructions of the Office, are included in primary capital to the extent of 25% of tangible primary capital.

(4) Mortgage servicing rights purchased prior to the effective date of this guideline are included in primary capital during their remaining useful lives or a period of up to 15 years, whichever is less.

(d) *Computation of risk-adjusted assets (the denominator).* (1) Assets of national banks are placed in one of five risk categories—0 percent, 10 percent, 25 percent, 50 percent, and 100 percent—for purposes of computing the risk-adjusted asset base. The aggregate dollar value of the assets in each category is multiplied by the weight assigned to that category. The resulting weighted values from each of the five risk categories are added together and this sum is the risk-adjusted assets total that comprises the denominator of the risk-adjusted capital ratio. The asset weightings are as follows:.

(i) 0 Percent

Cash—domestic and foreign.

Claims on Federal Reserve Banks.

(ii) 10 Percent

All claims on U.S. Government and its agencies (U.S. Government agencies are defined as federal agencies with debt obligations explicitly guaranteed by the full faith and credit of the U.S. Government).

(iii) 25 Percent

Cash items in the process of collection.

Short-term claims (with remaining maturity of one year or less) on domestic depository institutions and foreign banks.

Claims (including repurchase agreements) collateralized by cash or U.S. Government or agency debt.

Claims guaranteed by the U.S. Government or its agencies.

Local currency claims on foreign central governments to the extent that bank has local currency liabilities.

Federal Reserve Bank stock.

(iv) 50 Percent

Claims on U.S. Government-sponsored agencies (Government-sponsored agencies are defined as agencies established or chartered by the federal government to serve public purposes specified by the U.S. Congress, but which have obligations that are not guaranteed by the full faith and credit of the U.S. Government).

Claims (including repurchase agreements) collateralized by U.S. Government-sponsored agency debt.

General obligation claims on states, counties and municipalities.

Claims on multinational development institutions in which the U.S. Government is a shareholder or contributing member.

(v) 100 Percent

All other assets not specified above, including:

Claims on private entities and individuals.

Long-term claims on domestic and foreign banks,

Claims on foreign governments that involve transfer risk, and

Claims on all foreign private sector borrowers.

(2)(i) The risk weights of off-balance-sheet items are determined by a two-step process. First, the face amount of each item is multiplied by the appropriate credit conversion factor, a ratio designed to translate the face amount of off-balance-sheet exposures into a rough on-balance-sheet credit equivalent. Second, the resulting amount is then assigned to one of the broad risk categories (depending on the identity of the obligor or the maturity of the instrument) and included in the denominator of the risk-adjusted capital ratio.

(ii) The credit conversion factors applied to each off-balance-sheet item are as follows:

(A) *Trade-related contingencies*—50 percent credit conversion factor. Such trade-related contingencies include commercial

letters of credit and performance standby letters of credit. The latter includes obligations backing the performance of nonfinancial or commercial contracts or undertakings. To the extent permitted by law or regulation, performance standby letters of credit would include arrangements backing, among other things, subcontractors' and suppliers' performance, labor and materials contracts, and construction bids.

(B) *Direct credit substitutes*—100 percent credit conversion factor. Direct credit substitutes include financial guarantees and standby letters of credit, or other equivalent irrevocable obligations or surety arrangements, that "back" or guarantee repayment of commercial paper, tax-exempt securities, or other commercial or individual loans or debt obligations.

(C) *Sale and repurchase agreements and asset sales with recourse*, if not already included on the balance sheet—100 percent credit conversion factor.

(D) *Other commitments*, including foreign office overdraft facilities, revolving underwriting facilities, note issuance facilities, underwriting commitments and commercial and consumer credit lines—credit conversion factor is tied to the original maturity of the commitment. Maturity in this regard, is defined by the earliest possible point in time that the bank can, at its option, unconditionally cancel its commitment to a borrower. The longer the term of a loan commitment the greater the risk since there is a greater likelihood the borrower's financial circumstances or condition may change during the period the commitment is outstanding. The credit conversion factors for these instruments are: 10 percent—one year and less original maturity; 25 percent—more than one year and up to and including five years original maturity; and 50 percent—more than five years original maturity.

(iii) Commitments, for risk-adjusted capital purposes, are defined as any arrangements that legally obligate a bank to purchase loans or securities, or extend credit in the form of loans or leases, participations in loans and leases, overdraft facilities, revolving credit or underwriting facilities, or similar transactions. Generally, commitments involve a written contract or agreement, or a commitment fee or some other form of consideration. For the purpose of calculating the risk-adjusted capital ratio, the definition includes commitments that obligate the bank to extend credit to consumers or individuals in the form of retail credit card, check credit and overdraft facilities, home equity and mortgage lines, and other similar arrangements.

The existence of a "material adverse change" clause or similar provision does not by itself suggest that a lending arrangement is not a commitment. However, lending arrangements that are unconditionally cancellable at any time at the option of the bank would not be deemed to be commitments for risk asset purposes, provided that the bank, in fact, makes a separate credit decision based upon the borrower's current financial condition before each drawing under the lending facility. Unused credit card lines are to be included in the definition of commitments.

In the case of commitments structured as syndications, the risk asset framework includes only the banking organization's proportional share of such commitments. In addition, only the unused portion of commitments are treated as off-balance sheet items. Amounts that are already drawn and outstanding under a commitment appear on the balance sheet and such amounts, therefore, should not also be included as commitments for purposes of computing the risk-adjusted capital ratio.

Dated: May 5, 1987.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 87-13705 Filed 6-16-87; 8:45 am]

BILLING CODE 4810-33-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 750

[OPTS-60007; FRL 3180-9]

Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act (TSCA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend its procedural regulations, 40 CFR Part 750, Subpart A, to make it clear that a rulemaking proceeding under TSCA section 6 (15 U.S.C. 2605) may begin with the publication in the **Federal Register** of a notice of proposed rulemaking (NPRM), an advance notice of proposed rulemaking (ANPR), or notice of other appropriate action, such as a formal regulatory investigation designed to lead to issuance of rules within a reasonable time. This clarification is necessary because of an opinion in United States District Court on October 24, 1986, in the case of *Service Employees International Union (SEIU)* v. *Thomas* (D.D.C., No. 84-2790).

EPA is soliciting public comment on this proposed rule, even though it is procedural in nature and opportunity for public comment is not required.

DATES: Submit written comments on or before July 17, 1987.

ADDRESS: Submit written comments, identified by the docket control number (OPTS-60007), in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. NE-G004, 401 M ST., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404.

SUPPLEMENTARY INFORMATION:

I. Background and Rationale

Section 21 of TSCA, 15 U.S.C. 2620, provides that any person may petition EPA for, among other things, the issuance, amendment, or repeal of a rule under section 4, 6, or 8 of TSCA, 15 U.S.C. 2603, 2605, or 2607. EPA must grant or deny the petition within 90 days. In pertinent part, section 21 provides that, if EPA grants the petition, the Agency "shall promptly commence an appropriate proceeding in accordance with section 4, . . . 6 or 8." If EPA denies the petition, the petitioner may file a civil suit in United States District Court to compel the initiation of appropriate proceedings. This suit must be filed within 60 days of the denial, or within 60 days of the end of the 90-day period if EPA does not grant or deny within the 90-day period. In the case of a petition to initiate a proceeding for the issuance of a rule as opposed to amendments or repeals, the petitioner is entitled to de novo proceeding.

This rulemaking concerns the issue of what, under EPA's procedural regulations for section 6 rulemaking, constitutes the commencement of an appropriate proceeding when EPA grants a section 21 petition to issue rules under section 6.

40 CFR Part 750, Subpart A—Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act, sets forth the Agency's requirements for informal rulemaking under TSCA section 6(a). This includes such Agency obligations as the need to issue an NPRM, provide opportunity for public comment, establish a rulemaking docket, and provide opportunity for limited cross-examination. Section 750.2(a) states:

> (a) Each rulemaking subject to this part shall begin with the publication of a Notice of Proposed Rulemaking in the Federal Register.

EPA views this provision as a statement that the procedural rules of Part 750, Subpart A apply after the issuance of an NPRM. The United States District Court, however, in an October 24, 1986, opinion in *SEIU v. Thomas* rejected EPA's views and assigned a more pervasive meaning to 40 CFR 750.2(a) than EPA intended when it issued the regulation. The court determined that 40 CFR 750.2(a) requires a TSCA section 6 proceeding to begin with an NPRM. Thus, under the court's interpretation, if EPA grants a TSCA section 21 citizen's petition for a section 6 rule, the Agency must issue an NPRM.

EPA believes the court's interpretation is unduly restrictive. Accordingly, EPA is proposing to amend 40 CFR 750.2(a) to provide explicitly that a section 6 proceeding may begin by the publication of an NPRM, an ANPR, or notice of other appropriate action, such as a formal regulatory investigation designed to lead to issuance of a rule within a reasonable time. This is consistent with EPA's long-standing interpretation of its requirements under the procedural rules.

Rulemaking of necessity includes the information-gathering process that begins well before the issuance of a proposed rule. Under section 6(a) of TSCA, the Agency needs extensive data to make a number of findings regarding toxicity of a chemical substance to be regulated, potential exposure to the chemical substance, and the costs of reducing risks from that substance. Federal courts have acknowledged that rulemaking commences before the publication of a notice of proposed rulemaking. See, for example, *Natural Resources Defense Council v. EPA*, 595 F. Supp. 1255 (S.D.N.Y. 1984), where the court found that EPA may use an ANPR to initiate a rulemaking proceeding under section 4 of TSCA. Further, EPA should not be limited in its discretion in responding to section 21 petitions. Section 21 provides only 90 days to respond to a petition. Only in rare circumstances could EPA make a commitment, within that time, that a proposed rule should be issued.

II. Administrative Record

The Administrative Record for this rulemaking contains relevant documents filed with the court in *SEIU v. Thomas*. Comments on this proposal sould be submitted under separate cover and reference the docket control number (OPTS–60007). EPA will supplement the record with additional information as it is received and will identify the complete record by the date of promulgation of this amendment. The record is available to the public in the OTS Public Information Office from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The OTS Public Information Office is located in Rm. NE–G004, 401 M St., Washington, DC.

III. Regulatory Assessment Requirements

This proposed rule has been submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. It is not a "major" rule for purposes of that Executive Order, since it will not have any significant effect on the economy.

Under the Regulatory Flexibility Act, 5 U.S.C. 605, EPA has determined that this proposed rule would not have a significant impact on a substantial number of small entities. There is no reason to believe that it will have any real impact on small entities.

List of Subjects in 40 CFR Part 750

Administrative practice and procedure, Environmental protection, Hazardous materials.

Dated: June 11, 1987.

Lee M. Thomas,

Administrator.

PART 750—[AMENDED]

Therefore, it is proposed that 40 CFR Part 750 be amended as follows:

1. The authority citation for Part 750 would continue to read as follows:

Authority: 15 U.S.C. 2605.

2. Section 750.2 is amended by revising paragraph (a) to read as follows:

§ 750.2 Notice of proposed rulemaking.

* * * * *

(a) Each rulemaking becomes subject to this Part with the publication of a Notice of Proposed Rulemaking in the **Federal Register**. A proceeding under section 6 of the Toxic Substances Control Act may begin, as appropriate, with the publication in the **Federal Register** of a Notice of Proposed Rulemaking, an Advance Notice of Proposed Rulemaking, or notice of other action, such as a formal regulatory investigation designed to lead to issuance of rules within a reasonable time.

* * * * *

[FR Doc. 87–13839 Filed 6–16–87; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC–434–P]

Medicare Program; Standards for the Reuse of Hemodialyzer Filters and Other Dialysis Supplies

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would add standards and conditions for safe and effective hemodialyzer reuse and reprocessing, enforceable as Medicare conditions for coverage. It would incorporate by reference voluntary guidelines and standards adopted by the Association for the Advancement of Medical Instrumentation in July 1986 (i.e., "Recommended Practice for Reuse of Hemodialyzers"). In addition, the rule would provide standards for reuse of dialyzer caps and would prohibit reuse of transducer filters in ESRD facilities. As provided in section 9335(k) of Pub. L. 99–509, the Omnibus Budget Reconciliation Act of 1986, failure of facilities to comply with these conditions could result in suspension of payment or removal of the facility from coverage under the Medicare program.

DATE: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on August 17, 1987.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC–434–P P.O. Box 26676, Baltimore, Maryland 21207.

Please address a copy of comments relating to information collection requirements to: Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Allison Herron, Room 3208, New Executive offfice Building, Washington, DC. 20503.

In commenting, please refer to file code BERC–434–P. If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, DC, or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland. Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Rita McGrath, (301) 594–6719.

SUPPLEMENTARY INFORMATION:

I. Background

A. Program Description

Section 1881 of the Social Security Act (the Act) authorizes Medicare coverage for the treatment of end-stage renal disease (ESRD) in approved facilities that provide dialysis and transplantation services to ESRD patients. Approval is granted by HCFA after a State survey agency determines that the facility is in compliance with conditions for coverage of suppliers of end-stage renal disease services.

Rules relating to certification of suppliers are found under 42 CFR Part 405, Subpart S. The decision as to whether a facility complies with a particular condition for coverage depends on the manner and degree to which the supplier satisfies the various standards within each condition. A supplier is not in compliance, if, after completion of a survey, a State survey agency determines that the supplier fails to comply with one or more of the standards within the conditions for coverage, and the deficiencies are of such character as to limit substantially the supplier's capacity to furnish adequate care or to affect adversely the health and safety of patients.

Section 1881(b) of the Act authorizes the Secretary to limit Medicare reimbursement for kidney transplantation and dialysis services to facilities meeting such requirements as may be prescribed in regulations. The requirements are set forth at 42 CFR Part 405, Subpart U—Conditions for Coverage of Suppliers of End-Stage Renal Disease (ESRD) Services. Facility compliance is determined by an on-site facility survey.

The conditions and standards prescribe the services which must be provided and the qualifications of staff who provide those services. The conditions do not specify performance standards for equipment used in dialysis, other than to require its good repair, disinfection, and use in accordance with acceptable medical standards of practice.

In the process of hemodialysis, the patient's blood is cleansed of impurities by passing the blood through the filter (hemodialyzer) of a hemodialysis machine. Although the filter is labeled by manufacturers for single use, techniques exist that allow these devices to be cleaned, disinfected and satisfactorily reprocessed and reused for treatment of the same patient.

The multiple use of hemodialyzers has had its proponents and practitioners in this country and most parts of Europe for over 20 years. Reuse involves the cleaning, disinfecting and preparation of disposable hemodialysis devices for subsequent use for the same patient. The practice of reuse is estimated to be occurring in about 60 percent of dialysis facilities eligible under Medicare. Studies by the Public Health Service and others in the clinical community indicate that although the potential exists for adverse patient outcomes from reuse, reprocessing and reuse of dialyzers is a safe procedure when performed properly. The new regulations are intended to provide dialysis personnel with information necessary to perform reuse adequately and to require conformance with these procedures in order to minimize patient risks.

Current regulations at 42 CFR 405.2100 through 405.2171 provide the health and safety requirements that facilities furnishing ESRD services to beneficiaries are required to meet. They do not specifically address the issue of hemodialyzer reuse, nor do they provide criteria relating to the reuse process, namely the cleaning, disinfection and preparation of disposable hemodialysis devices for subsequent use. Under our present requirements, the ESRD facility and the physician must determine if devices will be reprocessed and reused by particular patients. Currently, surveyors only verify that facilities that reuse devices have a reprocessing procedure that does not jeopardize the health and safety of patients and staff.

B. New Legislation on Reuse of Dialysis Filters and Other Dialysis Supplies

Section 9335(k) of the Omnibus Budget Reconciliation Act of 1986 (OBRA '86), Pub. L. 99–509, amended Section 1881 of the Act by requiring the Secretary to establish protocols on standards and conditions for reuse of hemodialyzer filters for those facilities which voluntarily elect to reuse such filters. The protocols must be incorporated into the conditions for coverage no later than October 1, 1987. Thereafter, failure of a facility to follow such protocols may result in a finding of noncompliance as described in 42 CFR 405.1905. Consequences of noncompliance are termination of coverage under the Medicare and Medicaid programs or denial of payment for services. Section 9335(k) of OBRA '86 further requires, on or after January 1, 1988, that no dialysis facility may reuse blood lines, transducer filters, caps and other dialysis supplies unless the Secretary has established protocols for their reuse.

II. Provisions of the Proposed Regulations

We propose to incorporate the OBRA '86 provisions into several existing conditions and standards in our regulations (requirements for governing body of an ESRD facility, patients' rights and responsibilities, and physical environment) and to add a new condition pertaining to requirements for reuse of dialysis supplies other than dialyzers. The proposed changes in the regulations are discussed below:

We would revise the governing body and management condition at § 405.2136(b), to require that, if a facility is engaged in hemodialyzer reuse, the governing body must ensure that there are written policies and procedures with respect to reuse to assure that recommended practices are being followed. The governing body must require that each patient be informed about reuse.

We would revise the patients' rights and responsibilities condition at § 405.2138 by adding a new paragraph (a)(4) to require that patients be informed of a facility's practices with regard to reuse of hemodialyzers and other dialysis supplies. A facility would have the option to explain its reuse practice in person or in writing by utilizing printed material, such as brochures. If brochures are utilized to describe a facility and its services, they must contain a statement with respect to reuse of hemodialyzers and other components critical to patient treatment. A new paragraph (a)(5) would be added to require that patients be fully informed regarding their suitability for kidney transplantation and home dialysis. We are making this change to ensure that patients are fully informed of their treatment opportunities and to encourage self-dialysis and/or transplantation for the maximum practical number of patients who are medically, socially, and psychologically suitable candidates for such treatment.

We would add to the standard for medical records at § 405.2139(a) the requirement that a patient's medical record contain evidence that the patient was informed regarding his or her suitability for transplantation and home dialysis assessment as described in § 405.2138(a)(5).

The physical environment condition at § 405.2140 requires that ESRD services be furnished in a functional, sanitary, safe and comfortable setting for patients, staff and the public. The standard for favorable environment for patients at § 405.2140(b) currently requires that a facility be maintained and equipped to provide a functional, sanitary, and comfortable environment with an adequate amount of well-lighted space for the services. In addition, written policies and procedures must be in effect for preventing and controlling hepatitis and other infections. Section 405.2140(c), the standard for contamination prevention, requires that the facility employ appropriate techniques to prevent cross-contamination. Further, written patient care policies must specify the functions that are carried out by facility personnel and self-dialysis patients with respect to contamination prevention. We would add to the standard at § 405.2140(b) (1) and (c) that, where a facility reuses hemodialyzers, the facility must have established written procedures covering

the rinsing, cleaning, storing, disinfection and preparation of hemodialyzers.

In a new § 405.2150 we would add a condition and standards on reuse of hemodialyzers and other dialysis supplies, where a facility is engaged in such practice. The standards specify adequate and safe procedures pertaining to disinfection, patient monitoring, and environmental concerns in order to ensure the safety of both patients and staff. We believe that while good results have been demonstrated by facilities experienced in the reuse of hemodialyzers, the widespread application has created greater opportunities for the less experienced to use inadequate methods. In the proposed section, we would incorporate by reference into the regulations, the voluntary guidelines adopted by the Association for the Advancement of Medical Instrumentation (A.A.M.I.) in July 1986 (i.e., "Recommended Practice for Reuse of Hemodialyzers"). We are incorporating the A.A.M.I.'s guidelines because we believe it is important to prescribe the details of reprocessing dialyzers so that this procedure is carried out consistent with accepted medical practice. The A.A.M.I. guidelines are based on the national consensus of physicians, other health care professionals, government representatives, patients and industry. On December 5, 1986, the Assistant Secretary for Health of DHHS endorsed the adoption of the A.A.M.I. guidelines.

The A.A.M.I. guidelines are divided into 12 sections:

1. Scope;
2. Records;
3. Personnel qualifications and training;
4. Patient considerations;
5. Equipment;
6. Physical plant and environmental safety considerations;
7. Reprocessing supplies;
8. Hemodialyzer labeling;
9. Reprocessing;
10. Preparation for dialysis and testing for potentially toxic results;
11. Monitoring during dialysis; and
12. Quality assurance and quality control.

Although we propose to adopt the A.A.M.I. guidlines as currently established, we will consider comments on individual guidelines to evaluate whether some aspects may be too prescriptive or whether reasonable alternatives should be permitted.

In addition to the adoption of the A.A.M.I. guidelines on hemodialyzer reuse, we would add requirements detailing procedures governing the use of chemical germicides, staff exposure to these chemical germicides and surveillance of patient reactions to bacteremia. Based on recommendations from the Public Health Service, we would also add standards governing the reuse of dialyzer caps and specifying that transducer filters may not be reused. A study of blood lines is currently underway by the Public Health Service and proposed regulations may be published once the results of the study are complete.

III. Regulatory Impact Statement

A. Introduction

Executive Order (E.O.) 12291 requires us to prepare and publish an initial regulatory impact analysis for any proposed regulation that meets one of the E.O. criteria for a "major rule"; that is, that would be likely to result in: an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or 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. In addition, we generally prepare an initial regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a proposed regulation would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat all ESRD facilities as small entities.

B. Effect on Facilities

As of January 1986 there were 1457 hemodialysis facilities; 817 of them being independent facilities, and 640 hospital-based facilities. Although we have little data on the number of facilities that employ hemodialyzer reuse, we estimate that 80 to 90 percent of independent facilities and approximately 50 percent of hospital-based facilities reuse hemodialyzers. We believe that the great majority of these facilities already meet the standards specified in these regulations.

We expect that each facility will respond to these new standards based on the relationship of these standards to its current reuse practices, and to factors such as whether or not a facility presently meets the standards or can meet them without extensive changes, and whether or not the facility can buy new filters in quantity less expensively than it can upgrade its reuse practices.

We expect no effects on those facilities in which existing practices already meet these standards. In facilities not meeting the standards, the effects may be to stop reuse or to encourage the facilities to improve the quality of reuse.

Even if a facility makes a change in reuse practices that increases or decreases its costs, it will not necessarily receive a change in payment. The incurred costs for new and reused supplies, are included in the computation of the composite rate. Any individual facility's change in practices and costs could affect payment when included in data to be used for rebasing the composite rates paid for routine outpatient dialysis. Any increased costs for facilities, such as costs related to upgrading reuse practices, would be combined with reduced costs resulting from increase reuse or more economical practices. (It is unlikely that we will be able to acquire any data that will allow us to isolate or measure such hypothetical effects.)

C. Impact on Beneficiaries

We estimate that between 60 to 70 percent of all patients using hemodialysis are now using reused hemodialyzers. Because we believe so many beneficiaries are presently being treated appropriately with reused filters, we expect little impact on beneficiaries. The major effect of this proposed rule would be to assure that beneficiaries are not subjected to less than optimal reuse practice.

D. Conclusion

Because we are unable to predict the decisions facilities will make in response to this regulation, we are unable to quantify the potential effect it will have. We believe that some beneficiaries will be reassured when informed that HCFA has implemented standards with regard to reuse of dialysis supplies to ensure their health and safety. However, we expect that there will be a negligible effect on most beneficiaries and facilities. This is due to the fact that it appears that many facilities are currently following standards in reuse of dialyzers that are similar to those we are proposing. This proposed rule is not expected to result directly in any increases or reductions in Medicare program expenditures.

For these reasons, we have determined, and the Secretary certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. We have therefore not prepared a regulatory flexibility analysis.

E. Paperwork Reduction Act of 1980

Sections 405.2136(b), and 405.2140(b) and (c) of this proposed rule contain information collection requirements that are subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official whose name appears in the **ADDRESS** section of the preamble.

IV. Response to Comments

Because of the large number of comments we receive on proposed regulations, we cannot acknowledge or respond to them individually. However, in preparing the final rule we will consider all comments and respond to them in the preamble to that rule.

V. List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Health professions, Kidney diseases, Laboratories, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 405 Subpart U would be amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart U—Conditions for Coverage of Suppliers of End-Stage Renal Disease (ESRD) Services

1. The authority citation for Part 405 Subpart U continues to read as follows:

Authority: Secs. 1102, 1861, 1862(a), 1871, 1874, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395y(a), 1395hh, 1395kk, and 1395rr), unless otherwise noted.

2. The table of contents for Subpart U is amended by adding a new § 405.2150 to read as follows:

Subpart U—Conditions for Coverage of Suppliers or End-Stage Renal Disease (ESRD) Services

* * * * *

Sec.

405.2150 Condition: Reuse of hemodialyzers and other dialysis supplies

* * * * *

3. Section 405.2136 (b) introductory text is revised to read as follows:

§ 405.2136 Condition: Governing body and management.

* * * * *

(b) *Standard: operational objectives.* The operational objectives of the ESRD facility, including the services that it provides, are established by the governing body and delineated in writing. The governing body adopts effective administrative rules and regulations that are designed to safeguard the health and safety of patients and to govern the general operations of the facility, in accordance with legal requirements. Such rules and regulations are in writing and dated. The governing body ensures that they are operational, and that they are reviewed at least annually and revised as necessary. If the ESRD facility is engaged in the practice of hemodialyzer reuse, the governing body ensures that there are written policies and procedures with respect to reuse, to assure that recommended standards and conditions are being followed, and requires that patients be informed of the policies and procedures.

* * * * *

4. In § 405.2138, paragraph (a) introductory text is republished, paragraph (a)(3) is revised, and new paragraphs (a)(4) and (a)(5) are added, to read as follows:

§ 405.2138 Condition: Patients' rights and responsibilities.

* * * * *

(a) *Standard: informed patients.* All patients in the facility:

* * * * *

(3) Are fully informed by a physician of their medical condition unless medically contraindicated (as documented in their medical records);

(4) Are fully informed regarding the facility's reuse of dialysis supplies, including hemodialyzers. If printed materials such as brochures are utilized to describe a facility and its services, they must contain a statement with respect to reuse; and

(5) Are fully informed regarding their suitability for transplantation and home dialysis.

5. Section 405.2139(a) is revised to read as follows:

§ 405.2139 Condition: Medical records.

* * * * *

(a) *Standard: medical record.* Each patient's medical record contains sufficient information to identify the patient clearly, to justify the diagnosis and treatment, and to document the results accurately. All medical records contain the following general categories of information: Documented evidence of assessment of the needs of the patient, of establishment of an appropriate plan of treatment, and of the care and services provided (see § 405.2137(a) and (b)); evidence that the patient was informed of the results of the assessment described in § 405.2138(a)(5) identification and social data; signed consent forms referral information with authentication of diagnosis; medical and nursing history of patient; report(s) of physician examination(s); diagnostic and therapeutic orders; observations, and progress notes; reports of treatments and clinical findings; reports of laboratory and other diagnostic tests and procedures; and discharge summary including final diagnosis and prognosis.

* * * * *

6. Section 405.2140(b) and (c) are revised to read as follows:

§ 405.2140 Condition: Physical environment.

* * * * *

(b) *Standard: favorable environment for patients.* The facility is maintained and equipped to provide a functional sanitary, and comfortable environment with an adequate amount of well-lighted space for the services provided.

(1) There are written policies and procedures in effect for preventing and controlling hepatitis and other infections. These policies include, but are not limited to, appropriate procedures for surveillance and reporting of infections, housekeeping, handling and disposal of waste and contaminants, and sterilization and disinfection, including the sterilization and maintenance of equipment where dialysis supplies are reused, there are written policies and procedures covering the rinsing, cleaning, disinfection, preparation and storage of reused items which conform to requirements for reuse in § 405.2150.

(c) *Standard contamination prevention.* The facility employs appropriate techniques to prevent cross-contamination between the unit and adjacent hospital or public areas including, but not limited to, food service areas, laundry, disposal of solid waste and blood-contaminated equipment, and disposal of contaminants into sewage systems. Waste storage and disposal are carried out in accordance with applicable local laws and accepted public health procedures. The written patient care policies (see § 405.2136(f)(1)) specify the functions that are carried out by facility personnel and by the self-dialysis patients with respect to contamination prevention. Where dialysis supplies are reused, records are maintained that can be used to determine whether established procedures covering the rinsing, cleaning, disinfection, preparation and storge of reused items,

conform to requirements for reuse in § 405.2150

* * * * *

7. A new § 405.2150 is added to read as follows:

§ 405.2150 Condition: Reuse of hemodialyzers and other dialysis supplies.

An ESRD facility that reuses hemodialyzers and other dialysis supplies meets the requirements of this section.

(a) *Standard: Hemodialyzers.* If the ESRD facility reuses hemodialyzers, it meets the voluntary guidelines adopted by the Association for the Advancement of Medical Instrumentation (A.A.M.I.) July 1986 (i.e., "Recommended Practice for Reuse of Hemodialyzers") which is incorporated by reference.[1]

In addition to the A.A.M.I. 1986 edition criteria on hemodialyzer reuse, the ESRD facility conforms to the following procedures:

(1) *Chemical germicides.* To prevent any risk of dialyzer membrane leaks due to the combined action of different chemical germicides, dialyzers disinfected with one generic type of chemical germicide (e.g., formaldehyde) are not reused if a different germicide is introduced as part of the dialysis facility's reprocessing system.

(2) *Staff exposure to chemical germicides.* Chemical germicides are handled in a manner to minimize exposure to staff members who are involved in the reprocessing. The following exposure limits for a number of active ingredients contained in formulations of chemical germicides utilized in dialysis facilities have been set by the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) (see 29 CFR 1910.1000). Staff exposure to any material in the table is consistent with these limits.

TABLE

Substance/material	Limits
Formaldehyde	3 ppm TWA. 5 ppm Ceiling. (1 ppm TWA proposed by OSHA).
Glutaraldehyde	None developed.
Phenol	5 ppm TWA.
Glutaraldehyde-Phenol.	Individual standards of recommendations should apply.
Peracetic Acid	None developed.
Chlorine Dioxide Syn: Chlorine Oxide.	100 ppb TWA.
Hydrogen Peroxide	1 ppm TWA.
Chlorine	1 ppm Ceiling.

TWA = Time weighted average.
Ceiling = Maximum exposure ceiling.
ppm = Parts per million.
ppb = Parts per billion.

(3) *Surveillance of patient reactions.* In order to detect bacteremia, to maintain patient safety when unexplained events occur, and to provide the manufacturer with information so that prompt remedial action can be taken, the facility—

(i) Takes appropriate blood cultures at the time of a febrile response in a patient;

(ii) If pyrogenic reactions, bacteremia, or unexplained reactions associated with ineffective reprocessing are identified, terminates reuse of hemodialyzers in that setting and does not continue reuse until the entire reprocessing system has been evaluated; and

(iii) Notifies the manufacturer, if these reactions appear to be associated with any commercially available germicide or a reprocessing device.

(b) *Standard: Dialyzer caps.* If dialyzer caps are reused, they are disinfected with the same chemical germicide that is used to disinfect the hemodialyzer.

(c) *Standard: Transducer filters.* To control the spread of hepatitis, transducer filters are changed after each dialysis treatment and are not reused.

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare-Supplementary Medical Insurance Program; No. 13.714, Medical Assistance)

Dated April 9, 1987.

William L. Roper, M.D.

Administrator, Health Care Financing Administration.

Approved: April 17, 1987

Don M. Newman

Acting Secretary.

[FR Doc. 87-13714 Filed 6-16-87; 8:45 am]

BILLING CODE 4120-01-M

[1] Incorporation of the Association for the Advancement of Medical Instrumentation 1986 edition of the "Recommended Practice for Reuse of Hemodialyzers" was approved by the Director of the Federal Register in accordance with 5 U.S.C. 562(a) and 1 CFR Part 51 which governs the use of incorporations by reference. The "Recommended Practice for Reuse of Hemodialyzers" is available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street N.W., Washington, D.C. Copies may be obtained from the Association for the Advancement of Medical Instrumentation, 1901 North Fort Myers Drive, Suite 602, Arlington, Va. 22209-1699.

If any changes in the "Recommended Practice for Reuse of Hemodialyzers" are also to be incorported by reference, a notice to that effect will be published in the **Federal Register**.

Notices

Federal Register
Vol. 52, No. 116
Wednesday, June 17, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

June 12, 1987.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) or Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing 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 Washingtion, 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.

Existing

- Cooperative State Research Service
  Small Business Innovation Research Program
  CSRS–667 and 668
  Recordkeeping; Annually
  Small businesses or organizations; 250 responses; 750 hours; not applicable under 3504(h)
  Louise Ebaugh (202) 475–5059
- Cooperative State Research Service
  Assurance of Compliance with the Department of Agriculture Regulations Under Title VI of the Civil Rights Act of 1964
  CSRS–665 and 666
  On occasion
  Individuals or households; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 260 responses; 2,210 hours; not applicable under 3504(h)
  Louise Ebaugh (202) 475–5059

Extension

- Agricultural Marketing Service
  Fruit and Vegetable Market News Reports
  FV–29, FY–100, FV–100–1, FV–372, FV–498–1, FV–498–2
  Weekly; Monthly; Daily
  Farms; Businesses or other for-profit; Small businesses or organizations; 13,893 responses; 2,566 hours; not applicable under 3504(h)
  Darrell J. Breed (202) 447–2175
- Agricultural Marketing Service
  Reporting and recordkeeping Requirements Under Regulations (other than rules of practice) Under the Perishable Agricultural Commodities Act, 1930
  FV–211, FV–231 (Part 2)
  Recordkeeping; On occasion; Annually
  Businesses or other for-profit; Small businesses or organizations; 53,200 responses; 159,216 hours; not applicable under 3504(h)
  John D. Flangan (202) 447–2195
- Agricultural Stabilization and Conservation Service
  Agricultural Foreign Investment Disclosure Act Report
  ASCS–153
  On occasion
  Individuals or households; Farms; Businesses or other for-profit; Small businesses or organizations; 4,375 responses; 2,108 hours; not applicable under 3504(h)
  William Brown (202) 447–6833
- Food Safety and Inspection Service
  Questionnaire for Hotline Callers
  Quarterly
  Individuals or households; State or local governments; Farms; Businesses or other for-profit; Non-profit institutions; 400 responses; 33 hours; not applicable under 3504(h)
  Roy Purdie, Jr. (202) 447–5372
- Foreign Agricultural Service
  Readership Survey
  Annually
  Individuals or households; Farms; Businesses or other for-profit; Small businesses or organizations; 3,000 responses; 510 hours; not applicable under 3504(h)
  Geraldine Schumacher (202) 447–7115

Revision

- Food Nutrition Service
  Food Stamp Redemption Certificate
  FNS–278–B, FNS–278–4
  On occasion
  Businesses or other for-profit; Non-profit institutions; 46,363,271 responses; 463,633 hours; not applicable under 3504(h)
  Brue A. Clutter (703) 756–3460

Larry K. Roberson,
Acting Departmental Clearance Officer.

[FR Doc. 87–13813 Filed 6–16–87; 8:45 am]
BILLING CODE 3410–01–M

Commodity Credit Corporation

Filing Deadline for CCC Benefits Made Available by the Farm Disaster Assistance Act of 1987

AGENCY: Commodity Credit Corporation, USDA.

SUMMARY: The purpose of this notice is to announce the deadline by which time eligible producers must submit an application or execute a contract, as may be applicable, for benefits to be made available by the Commodity Credit Corporation ("CCC") in accordance with the Farm Disaster Assistance Act of 1987 (the "1987 Act"). Section 633(B) of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Pub. L. 99–500 and 99–591 (the "1986 Act"), provided for the making of disaster payments to certain producers. Among other things, the 1987 Act amended the 1986 Act by extending eligibility to certain producers of apples, hay and straw, soybeans, peanuts, sugar beets, sugar cane, and upland cotton.

Special provisions are also applicable to producers who reside in the State of Maine. This notice announces the deadline by which time applications from these producers for assistance under the 1986 Act, as amended by the 1987 Act, must be made.

This notice also announces the deadline by which time certain producers of the 1987 crops of wheat, feed grains, upland cotton and rice must execute a contract to participate in the 1987 price support and production adjustment programs.

FOR FURTHER INFORMATION CONTACT: Raymond K. Aldrich, Program Specialist, Cotton, Grain, and Rice Price Support Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified "not major". It has been determined that this notice will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal Assistance programs to which this notice applies are: Commodity Loan and Purchases—10.051; Cotton Production Stabilization—10.052; Feed Grain Production Stabilization—10.055; Wheat Production Stabilization—10.058; Rice Production Stabilization—10.065 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since neither the ASCS nor the CCC is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject of this notice.

This notice 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

Section 633(B)(a) of the 1986 Act provides that disaster payments are to be made by CCC to eligible producers who suffered losses of production with respect to their 1986 crops of wheat, feed grains, upland cotton, rice, soybeans, sugar beets, sugar cane and peanuts ("Program Crops"). Generally such a producer must: (1) Have suffered an actual loss of production in excess of 50 percent of the producer's normal production as the result of drought, excessive heat, flood, hail or excessive moisture in 1986 and (2) be located in a county which was designated as a county in which producers were eligible to receive Farmers Home Administration ("FmHA") disaster emergency loans. The 1986 acreage which was used in determining the disaster payment could not exceed the farm's 1986 permitted acreage for wheat, feed grains, upland cotton, and rice. With respect to soybeans, peanuts, sugar beets and sugar cane, the eligible acreage could not exceed the sum of the acreage planted and prevented from planting to such crops or other non-conserving crops in 1985. Further, no adjustments were allowed due to quality losses.

Section 7 of the 1987 Act amended section 633(b)(a) to provide, subject to an advance appropriation, that: (1) With respect to sugar beets and sugar cane, the eligible acreage is the 1986 acreage affected by the above-stated disaster conditions and is not limited by the acreage planted in 1985; (2) with respect to soybeans and peanuts, the eligible acreage is the 1986 disaster affected acreage not to exceed the sum of the acreage planted and prevented from being planted to soybeans or peanuts or other non-conserving crops in 1985 as adjusted by the county Agricultural Stabilization and Conservation Committee to take into account crop rotation practices in 1985; and (3) an adjustment in the loss of production with respect to upland cotton due to losses of quality which resulted from such disaster conditions.

Section 633(B)(b) provides that disaster payments also are to be made by CCC to eligible producers of other crops ("nonprogram crops") if: (1) Such disaster conditions have created an economic emergency for the producer and (2) such producer is in a county in which producers are eligible to receive FmHA disaster emergency loans. Section 7 of the 1987 Act amended section 633(B)(b) to provide, subject to an advance appropriation, that disaster payments shall also be available to: (1) producers of hay and straw that was harvested in 1986, stored on a field, and removed from the field by a flood, and (2) producers of apples who suffered losses due to freezing.

Section 7 of the 1987 Act also provides that producers of nonprogram and program crops in the State of Maine, have an additional 30 days to file for assistance in accordance with section 633(B).

Section 7 of the 1987 Act provides that producers who are affected by these amendments must submit an application for payment on or before 30 days after the enactment of the 1987 Act. This date is June 26, 1987.

The regulations which were issued in accordance with section 633(B) are set forth at 7 CFR Part 1477. Except as noted above, eligibility criteria for receiving these payments remains as set forth in 7 CFR Part 1477.

Sections 2 through 5 of the 1987 Act amended the Agricultural Act of 1949, as amended, to provide that certain producers of the 1987 crops of wheat, feed grains, upland cotton and rice may receive deficiency payments with respect to 92 percent of the permitted acreage which has been determined for a crop for a farm if the producer plants any amount of acreage, which is less than 92 percent of such a crop's permitted acreage or if the producer plants no acreage to such a crop. Winter wheat producers in all counties are eligible to receive deficiency payments in accordance with this provision. Further, winter and spring wheat producers may receive deficiency payments in accordance with this provision if the producer was prevented from planting wheat for harvest in 1987 because of a natural disaster in 1986 and the farm is located in a county in which producers were eligible to receive FmHA disaster emergency loans.

Producers of the 1987 crops of wheat, feed grains, upland cotton and rice may also receive deficiency payments in accordance with this provision if: (1) The producer's farm, during the normal planting season for such a crop, is subject to flooding on at least 50 percent of the program crop acreage on the farm as the result of damage to a levee from flooding that occurred in 1986 and (2) the farm is located in a county in which producers were eligible to receive FmHA disaster emergency loans as a result of such disaster.

In order to be eligible for consideration with respect to the receipt of a disaster payment in accordance with section 633(B) of the 1986 Act, as amended by the 1987 Act, eligible producers must file an application for payment in accordance with 7 CFR Part 1477 by June 26, 1987.

Producers of the 1987 crops of wheat, feed grains, upland cotton and rice were required to execute a contract to participate in the 1987 price support and production adjustment programs on or before March 30, 1987 in order to be eligible to receive deficiency payments and other program benefits. In order to receive any deficiency payment, producers were required to plant at least 50 percent of the permitted acreage for any such crops. Due to the enactment of the 1987 Act on May 27, 1987, which removed this 50 percent planting requirement, CCC has determined that producers who are now eligible to receive these deficiency payments may execute a contract to participate in the 1987 programs in accordance wth 7 CFR Part 713 on or before July 15, 1987.

Persons who believe that they may qualify for either a disaster payment or a deficiency payment as the result of the enactment of the 1987 Act may contact their local county Agricultural Stabilization and Conservation Service office for further information.

Milton J. Hertz,

Executive Vice President, Commodity Credit Corporation.

June 11, 1987.

[FR Doc. 87-13781 Filed 6-16-87; 8:45 am]

BILLING CODE 3410-05-M

Cooperative State Research Service

Food and Agriculture Sciences National Needs Graduate Fellowships Grants Program for Fiscal Year 1987; Program Solicitation

This notice amends a prior notice published at 52 FR 5653 on Wednesday, February 25, 1987. Total funds available for this program were not evenly divisable by $48,000, which was the amount to be provided for each fellowship awarded. Remaining funds were not sufficient to provide complete funding for another three year fellowship. Therefore, the Program Manager has decided to utilize those remaining dollars to fund an additional fellow for a period of two years at an institution selected under the progrma's competitive processes.

Done at Washington, DC, this 12th day of June, 1987.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 87-13815 Filed 6-16-87; 8:45 am]

BILLING CODE 3410-22-M

Soil Conservation Service

Jackson County High School Critical Area Treatment; RC&D Measure, Kentucky

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact/environmental assessment.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Jackson County High School Critical Area Treatment RC&D Measure, Jackson County, Kentucky.

FOR FURTHER INFORMATION CONTACT: Randall W. Giessler, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, KY 40504, telephone: 606-233-2749.

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

The measure concerns a plan for reduced soil erosion and water disposal problems on six acres of land at the Jackson County High School Campus. The planned works of improvement include: a riprap chute, drain pipes, a grade stabilization structure, terraces, a diversion channel, tree planting, and permanent vegetative cover.

The Finding of No Significant Impact/ Environmental Assessment (FONSI/EA) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies, and interested parties. A limited number of copies of the FONSI/ EA are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Randall W. Giessler.

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

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

Dated: June 8, 1987.

Randall W. Giessler,

State Conservationist.

[FR Doc. 87-13755 Filed 6-16-87; 8:45 am]

BILLING CODE 3410-6-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management (OMB)

DOC has submitted to OMB for clearance the following proposal collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Annual Demographic Survey (1988)
Form Number: Agency CPS-1, CPS-665; OMB—0607-0354
Type of request: Revision of a currently approved collection
Burden: 60,000 respondents; 24,000 reporting hours
Needs and uses: This supplement is the source of data on work experience, personnel and family income, poverty levels, pollution status, family relationships, marital status, and migration. These measurements will be analyzed with respect to each other as well as with demographic variables such as education, age, and sex.
Affected public: Individuals or households
Frequency: Annually
Respondent's Obligation: Voluntary
OMB Desk Officer: Don Arbuckle, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: June 10, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-13816 Filed 6-16-87; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[A-588-045, A-588-068]

Initiation of Antidumping Duty Administrative Reviews; Japanese Steel Wire Rope and Steel Wire Strand for Prestressed Concrete

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

ACTION: Notice of Initiation of Antidumping Duty Administrative Reviews.

SUMMARY: In accordance with the Tariff Act of 1930, the Department of Commerce is initiating section 751 administrative reviews of Mitsui & Co., Ltd. in the antidumping findings on Japanese steel wire rope and steel wire strand for prestressed concrete.

EFFECTIVE DATE: June 17, 1987.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5505/3601.

SUPPLEMENTARY INFORMATION: In accordance with § 353.53a(c) of the Commerce Regulations, we are initiating antidumping duty administrative reviews of Mitsui in the following antidumping findings. We intend to publish the final results of these reviews no later than June 30, 1988.

Merchandise	Country	Firm to be reviewed	Periods to be Reviewed
Steel Wire Rope.	Japan	Mitsui & Co., Ltd.	1/74-9/85
Steel Wire Strand for Prestressed Concrete.	Japan	do	4/78-11/85

These initiations and this notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: June 9, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-13817 Filed 6-16-87; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application for amendment to export trade certificate of review.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate should be amended.

FOR FURTHER INFORMATION CONTACT: George Muller, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether the certificates should be issued. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 85-A0017." A summary of this amendment request follows:

Applicant: Pacific Northwest Fish Export Association, Inc., 2600 Century Square, 1501 Fourth Avenue, Seattle, Washington, 98101.

Contact: James P. Walsh, legal counsel, 202-822-9775.

Application #: 85-A0017

Date Deemed Submitted: June 3, 1987

Members (in addition to applicant): Icicle Seafoods, Inc., Seattle, WA; Ocean Beauty Seafoods, Inc., Seattle, WA; Peter Pan Seafoods, Inc., Seattle, WA; Kemp Pacific Fisheries, Inc., Seattle, WA; and Trident Seafoods Corporation, Seattle, WA.

Summary of the Application: Pacific Northwest Fish Export Association, Inc. (PNFEA), a Washington corporation, was issued an Export Trade Certificate of Review on April 24, 1986 (51 FR 16089). PNFEA was established to engage in worldwide export trade activities involving fish and fish products, including salmon (fresh, frozen, canned and roe), herring roe, tanner crab, king crab, and black cod (sablefish), and a wide variety of trade facilitation services.

Under the terms of its certificate, PNFEA was certified to: (a) Exchange among its members information concerning marketing and sales efforts and opportunities in the export markets, quality and quantity of fish and fish products available for export by its members, and US and foreign legislation, regulations and policies affecting export sales; (b) conduct meetings to share such information among the members; and (c) prescribe the conditions for acquisition and sale of PNFEA stock.

Member companies covered under the original certificate included: Icicle Seafoods, Inc.; Ocean Beauty Seafoods, Inc.; Peter Pan Seafoods, Inc.; and Sea-Alaska Products, Inc.

In this application, PNFEA seeks to amend its certificate to reflect its current membership, to specify new products, and to include additional export trade activities. Accordingly, PNFEA seeks to have its certificate cover the following specific changes:

1. Amend the membership portion of the certificate to reflect that (a) Sea-Alaska Products, Inc. has merged with Trident Seafoods Corporation, and (b) Trident Seafoods Corporation and Kemp Pacific Fisheries, Inc. seek to become members protected by the certificate.

2. Amend the list of export trade products to specifically enumerate roe herring and Alaska bottomfish.

3. Amend the export trade activities and methods of operation to also allow:

(a) PNFEA to purchase, for resale on its own account in the Export Markets, fish and fish products from its members and provide or make arrangements to obtain all necessary export trade services for such export sales. Members will not be required to sell all or any specified portion of their fish and fish products to PNFEA for export. Unless otherwise agreed to by the members, if

it should become necessary to limit purchases by PNFEA of its members' fish and fish products for export, purchase amounts shall be allocated pro rata based on (1) sealed bids indicating amounts each members wishes to sell to PHFEA and (2) the total limit of purchases for that fish or fish product at that time.

(b) PNFEA and its members to enter into agreements with regard to exports of fish and fish products to:

(i) Set export prices;

(ii) Establish standard terms of sale;

(iii) Obtain insurance, financing, transportation, sales agents, representatives, and other export services; and

(iv) Pool fish and fish products of its members that are available for export and consolidate sales in the export markets without taking title in the name of PHFEA.

Dated: June 12, 1987.

Albert N. Alexander,

Acting Deputy Assistant Secretary for Services.

[FR Doc. 87-13818 Filed 6-16-87; 8:45 am]

BILLING CODE 3510-OR-M

Minority Business Development Agency

[Transmittal No. 06-10-87006-01; Project I.D. No. 06-10-87006-01]

Financial Assistance Application Announcement; McAllen Minority Business Development Center (MBDC), Texas

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 $256,118 for the project's performance period of October 1, 1987 to September 30, 1988. The MBDC will operate in the McAllen, Texas Standard Metropolitan Statistical Area (SMSA).

The first year's cost for the MBDC will consist of:

Name	Federal	Non-federal	Total
McAllen, Texas SMSA	$217,700	$38,418	$256,118

Can be a combination of cash, in-kind contribution and fee for service.

The funding instruments for the MBDC will be a cooperative agreement and competition is open to individuals, non-profit 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.

DATE: CLOSING DATE: The closing date for the receipt of application is July 17, 1987.

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.

A pre-bid conference will be held on June 29, 1987 at 1:00 PM at the following location: Pharr Chamber of Commerce, 308 West Park Avenue, Pharr, Texas, (512) 787-1481.

Additional RFAs will be available at the conference site.

June 11, 1987.

Melda Cabrera,

Acting Regional Director, Minority Business Development Agency.

Section B. Project Specifications

Program number and title: 11.800 Minority Business Development.

Project name: McAllen, Texas MBDC (Geographic Area of MSA).

Project identification number: 06-10-87006-01.

Project start and end dates: 10/1/87 thru 9/30/88.

Project duration: 12 months.

Total Federal funding (85%)	$217,700
Minimum non-federal funding sharing (15%)	$38,418
Total Project Cost (100%)	$256,118

Closing date for receipt of this application: July 17, 1987.

Geographic specification: The Minority Business Development Center shall offer assistance in the geographic area of: McAllen Texas.

Eligibility criteria: There are no eligibility restrictions for this project. Eligible applicants may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian Tribes, and educational institutions.

Project period: The competitive award period will be for approximately three years consisting of three separate budget periods. Performance evaluations will be conducted, and funding levels will be established for each of three budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDA based upon the availability of funds, the MBDC's performance, and Agency priorities.

MBDA's minimum levels of efforts:

Financial packages	*$2,990,000*
Procurements	*$6,344,000*
Billable M&TA	*$136,000*
Number of Clients	*85*

[FR Doc. 87-13917 Filed 6-16-87; 8:45 am]

BILLING CODE 3510-21-M

COMMISSION ON EDUCATION OF THE DEAF

Executive Committee; Meeting

AGENCY: Commission on Education of the Deaf.

ACTION: Notice of meetings.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given of a forthcoming meeting of the Executive Committee of the Commission on Education of the Deaf. The purpose of the meeting is to

prepare an agenda package for the Commission meeting planned in August and to receive reports. This meeting will be open to the public.

DATE: July 2, 1987, 8:00 a.m. until 12:00 p.m.

ADDRESS: Kachina B Room, Sheraton de Santa Fe, 750 N. St. Francis Drive, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Monica Hawkins, Commission on Education of the Deaf, GSA Regional Office Building, Room 6646, 7th and D Streets, SW., Washington, DC 20407, [202] 453–4353 [TDD] or [202] 453–4684 [voice].

SUPPLEMENTARY INFORMATION: The Commission on Education of the Deaf's Executive Committee will meet on July 2, 1987 from 9:00 a.m. until 12:00 p.m.

The proposed agenda for the Committee meeting includes the following:

I. Approval of minutes
II. Reports:
- Commission Chairperson's Report
- Vice-Chairperson's Report
- Executive Committee Chairperson's Report
- Staff Director's Report
- Status Report
  —Four public meetings
  —Notice of Inquiry

III. Agenda for August Commission Meeting
IV. Place for meetings in September

Records will be kept of the proceedings and will be available for public inspection at the office of the Commission on Education of the Deaf, GSA Regional Office Building, Room 6646, 7th and D Streets, SW., Washington, DC.

Patricia L. Johanson,

Staff Director, Commission on Education of the Deaf.

June 10, 1987.

[FR Doc. 87–13772 Filed 6–16–87; 8:45 am]

BILLING CODE 6820-SD-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Advisory Group on Electron Devices; Meeting of Working Group C (Mainly Opto Electronics)

SUMMARY: Working Group C (Mainly Opto Electronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Tuesday, 14 July 1987.

ADDRESS: The meeting will be held at RADC/ESO, Griffiss AFB, MA.

FOR FURTHER INFORMATION CONTACT: Gerald Weiss, AGED Secretariat, 201 Varick Street, New York, 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This opto-electronic device area incudes such programs as imaging devices, infrared detectors and lasers. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. II 10(d)(1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

June 12, 1987.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 87–1376 Filed 6–16–87; 8:45 am]

BILLING CODE 3810-01-M

Advisory Group on Electron Devices; Meeting of Working Group A (Mainly Microwave Devices)

SUMMARY: Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Wednesday, 15 July 1987.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Harold Summer, AGED Secretariat, 201 Varick Street, New York, 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matter listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 12, 1987.

[FR Doc. 87–13787 Filed 6–16–87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Secretary of the Navy's Advisory Committee on Naval History; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Secretary of the Navy's Advisory Committee on Naval History will meet on August 4, 1987 at 8:30 a.m., in the Dudley Knox Center for Naval History Conference Room, second floor, Building 57, Washington Navy Yard, Washington, DC. The meeting will be open to the public.

The purpose of the meeting is to review naval historical activities since the last meeting of the Advisory Committee in October 1986 and to make comment and recommendations on these activities to the Secretary of the Navy.

For further information concerning this meeting, write to the Director of

Naval History, Washington Navy Yard, Washington, DC 20374, or telephone Dr. Dean C. Allard at (202) 433–3170.

Dated: June 12, 1987.

Jane M. Virga,

LT, JAGC, USNR, Federal Register Liaison Officer.

[FR Doc. 87–13760 Filed 6–16–87; 8:45 am]

BILLING CODE 3810–01–M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app), notice is hereby given that the Naval Research Advisory Committee Panel on the Navy's Role in the Air Defense Initiative will meet on June 30 through July 1, 1987. The meeting will be held at the Science Applications International Corporation, 1710 Goodridge Drive, McLean, Virginia. The meeting will commence at 8:00 A.M. and terminate at 5:00 P.M. on June 30 and July 1, 1987. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to identify appropriate research efforts, management techniques, and interservice cooperative efforts related to the air defense initiative. The agenda will include technical briefings and discussions related to service policies, perspectives, concepts of operations, and the intelligence threat. These briefings and discussions will contain classified information that is specifically authorized under critera established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executve 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 552(b)(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: June 12, 1987.

Harold L. Stoller, Jr.,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 87–13761 Filed 6–16–87; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ES87–31–000 et al.]

Electric Rate and Corporate Regulation Filings; Alamito Co. et al.

June 11, 1987.

Take notice that the following filings have been made with the Commission:

1. Alamito Company

[Docket No. ES87–31–000]

Take notice that on June 1, 1987, Alamito Company filed an application seeking authority to guarantee an issue of Variable Rate Demand Pollution Control Bonds in the principal amount of $86,500,000 which are to be issued by the Industrial Development Authority of the County of Pima, Arizona. The proceeds from the sale of the Bonds will be used to refund a similar series of Pollution Control Bonds which were issued by the Authority in 1981 in connection with the financing of the San Juan Generating Station Unit No. 3 near Farmington, New Mexico.

Comment date: June 25, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Arizona Public Service Company

[Docket No. ER87–468–000]

Take notice that Arizona Public Service Company (APS) on June 3, 1987, tendered for filing four separate Wholesale Power Agreements between APS and Electrical District No. 8 (ED–8), Tonapah Irrigation District (TID), McMullen Valley Water Conservation and Drainage District (MVWCDD), and Aguila Irrigation District (AID).

These new Agreements provide for APS to supply partial requirements wholesale power at a rate level already accepted by the Commission for similar type service. This power will be used to supplement allocations of preference power that the Districts are to begin receiving on June 1, 1987.

APS, with the concurrence of each District, requests an effective date on June 1, 1987

Copies of this filing have been sent to ED–8, TID, MVWCDD, AID, their attorneys and consultant, and the Arizona Corporation Commission.

Comment date: June 25, 1987, in accordance with Standard Paragraph E at the end of this notice

3. Arizona Public Service Company

[Docket No. ER87–469–000]

Take notice that Arizona Public Service Company (APS) on June 3, 1987, tendered for filing four separate Wheeling and Administrative Service Agreements between APS and Electrical District No. 8 (ED–8), Tonopah Irrigation District (TID), McMullen Valley Water Conservation and Drainage District (MVWCDD), and Aguila Irrigation District (AID).

These new Agreements provide for APS to wheel the Districts preference power allocations from various governmental agencies at a rate level already accepted by the Commission for similar type service.

APS, with the concurrence of each District, requests an effective date on June 1, 1987

Copies of this filing have been sent to ED–8, TID, MVWCDD, AID, their attorneys and consultant, and the Arizona Corporation Commission.

Comment date: June 25, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Centel Corporation

[Docket No. ER87–472–000]

Take notice that Centel Corporation (Centel), on June 4, 1987, tendered for filing an Interconnection Contract between Centel and Midwest Energy, Inc. Included with this filing is an agreement between Centel and Midwest Energy covering Service Schedule P (Participation Power Service), which becomes a part of the Interconnection Contract dated May 29, 1987.

Copies of the filing were served upon Midwest Energy, Inc., and the Utilities Division, Kansas Corporation Commission, Topeka, Kansas.

Comment date: June 25, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Idaho Power Company

[Docket No. ER87–347–000]

Take notice that on June 5, 1987, Idaho Power Company (Idaho Power) of Boise, Idaho, submitted for filing a revised return on equity provision with respect to the following Agreements, which have been executed by Idaho Power and Sierra Pacific Power Company (Sierra):

Compliance Filing—Idaho Power Company, FERC Docket No. ER87–347–000, Interconnection Agreement, September 1, 1976, Idaho Power Company—Sierra Pacific Power Company

Interconnection and Transmission Services Agreement, May 29, 1981, Idaho Power Company—Sierra Pacific Power Company

The above Agreements were previously submitted for filing and this filing is submitted in response to a Commission deficiency letter dated May 7, 1987. The revised provision amends

the 1981 Interconnection and Transmission Services Agreement and is now filed to conform the contractual provisions of those agreements to the Federal Energy Regulatory Commission policy on automatically adjusting equity clauses as set forth in New England Power Company (NEPCo), 31 FERC ¶61,378 (1985).

Idaho Power requests that the requirements of prior notice be waived for an effective date of May 29, 1980.

Idaho Power states that it has served copies of its filing on Utah Power and on the Public Utilities Commissions of the states of Idaho, Utah, Wyoming, and California.

Comment date: June 25, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Montaup Electric Company

[Docket No. ER87-471-000]

Take notice that on June 5, 1987, Montaup Electric Company tendered for filing rate schedule revisions which would decrease Montaup Electric Company's M-11 wholesale rate to terminate the collection of Pilgrim II abandonment losses. The recovery of those losses was completed in May 1987.

The enclosed rate schedule revisions contain (1) a prospective reduction in the demand charge and (2) a one-time credit to refund with interest amounts collected after the recovery of Pilgrim II losses was completed until the rate schedule revisions are allowed to become effective. The Company requests that the rate schedules be made effective immediately following the effectiveness of compliance rate schedules tendered by the Company on May 27, 1987 to conform with Opinion Nos. 267 and 267-A. Those compliance rate schedules contain rate design changes and a one-time credit to refund amounts owed to wholesale customers under those opinions and the M-9 settlement agreement. The compliance rate schedules are to become effective on the first day of the month after the Commission issues its order accepting the compliance rate schedules for filing.

The enclosed rate schedules are identical to the compliance rate schedules except that the enclosed schedules eliminate Pilgrim II losses from the demand charge and contain the one-time Pilgrim II credit in addition to the one-time compliance credit. In requesting that the enclosed rate schedules supersede the compliance rate schedules as soon as the compliance rate schedules become effective, the Company is seeking to place in effect at the same time (a) the one-time compliance credit, (b) the one-time Pilgrim II credit, (c) the rate design changes required by Opinion Nos 267 and 267-A and (d) the reduction in the demand charge required to eliminate recovery of Pilgrim II losses. Making all of these changes effective at the same time will minimize the changes required to retail rates in order to pass the changes in wholesale rates through to the ultimate customer.

Copies of the filing have been served on the affected customers, the Massachusetts Department of Public Utilities and the Rhode Island Public Utilities Commission.

Comment date: June 25, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Oklahoma Gas and Electric Company

[Docket No. ER87-473-000]

Take notice that on June 5, 1987, Oklahoma Gas and Electric Company (OG&E) tendered for filing a Memorandum of Understanding, with attachments, dated May 26, 1987, between OG&E and Oklahoma Municipal Power Authority (OMPA).

The Memorandum provides a four month period to modify operating procedures to allow OMPA to more nearly match its resources with its load. OG&E and OMPA request a waiver of notice requirements to allow an effective date of June 1, 1987.

Copies of this filing have been served on OMPA, Oklahoma Corporation Commission and Arkansas Public Service Commission.

Comment date: June 25, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of New Mexico

[Docket No. ER87-470-000]

Take notice that on June 3, 1987, Public Service Company of New Mexico (PNM) submitted for filing Amendment No. 1 dated April 29, 1987, amending the PNM and Tucson Electric Power Company (Tucson) Interconnection Agreement Service Schedule E, dated January 25, 1979. The Amendment provides a means for revising PNM's and Tucson's reserve sharing entitlements and obligations with respect to San Juan Generating Station Units 1, 2, 3, and 4 and Springerville Generating Station Units 1 and 2 so as to accommodate changes, as they occur, in unit entitlements, unit ownership sales, unit retirements, commercial ratings, economic curtailments, and other factors that affect reserve sharing.

Copies of the filing have been served upon Tucson and the New Mexico Public Service Commission.

Comment date: June 25, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13764 Filed 6-16-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER87-188-000, ER87-189-000, ER87-192-000, ER87-193-000, ER87-194-000, ER87-195-000, and ER87-196-000]

Allegheny Power Service Corp.

June 11, 1987.

Take notice that on May 13, 1987, Allegheny Power Service Corporation (APS) tendered for filing additional information, at the Commission's request, concerning various modifications of APS Interconnection Agreement filings.

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 Captitol Street, NE., Washington, DC 20426, in accordance with Rules 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 19, 1987. Protests will be considered by the Commission in determining the appropirate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13765 Filed 6-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-41-003]

Alabama-Tennessee Natural Gas Co.; Compliance Filing

June 12, 1987

Take notice that on June 5, 1987, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) tendered for filing the following revised tariff sheets to First Revised Volume No. 1 of its FERC Gas Tariff:

Second Revised Sheet No. 4
Second Revised Sheet No. 10
First Revised Sheet No. 11
Second Revised Sheet No. 12
Second Revised Sheet No. 16
First Revised Sheet No. 17
First Revised Sheet No. 24
First Revised Sheet No. 25
First Revised Sheet No. 27
Original Sheet No. 27A
First Revised Sheet No. 28
First Revised Sheet No. 37
First Revised Sheet No. 83
First Revised Sheet No. 89
First Revised Sheet No. 91
Second Revised Sheet No. 101
Alternate Second Revised Sheet 4

Alabama-Tennessee states that this filing complies with Ordering Paragraph (B) of the Commission order that issued March 27, 1987, in this proceeding. The proposed effective date of this rate change is September 1, 1987, the conclusion of the suspension period in this case.

Alabama-Tennessee states that copies of this filing have been served upon its customers and the state commissions of Alabama, Mississippi, and Tennessee, and to all parties in the captioned proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure. All such motions or protests should be filed on or before June 19, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13802 Filed 6-16-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP87-47-000]

Amoco Production Co.; Request for Declaratory Order

June 12, 1987.

Take notice that Amoco Production Company (Amoco) has requested that the Commission issue a declaratory order concerning the royalties which the Louisiana Land and Exploration Company (LL&E) may receive with respect to gas produced from its property in the Bastian Bay Field in Louisiana. Before 1960, LL&E leased the property in question to Amoco. The lease required Amoco to pay LL&E royalties measured by a percentage of the value of the gas produced. The lease also prohibited Amoco from assigning or transferring its leasehold rights without the consent of LL&E.

In 1960, Amoco assigned the lease to Tennessee Gas Pipeline Co. (Tennessee). In order to obtain LL&E's consent, Amoco and Tennessee entered into a letter agreement with LL&E by which Tennessee agreed to pay LL&E royalties at a fixed rate higher than the royalties formerly paid by Amoco. In Opinion Nos. 772 [1] and 772-A,[2] affirmed by the Fifth Circuit Court of Appeals,[3] the Commission determined that the transaction between LL&E and Tennessee was a sale of gas in interstate commerce subject to the Commission's Natural Gas Act jurisdiction. The Commission required LL&E to refund to Tennessee the amount by which its renegotiated royalty receipts exceeded what it would have received under a conventional, regulated pricing structure. The refunds totalled $3,300,000. LL&E has brought a contract action against Amoco in the United States District Court for the Western District of Louisiana. LL&E claims in the court suit that the 1960 letter agreement requires Amoco to pay any royalties not paid by Tennessee and accordingly seeks to have Amoco ordered to pay LL&E $3,300,000.

Based on these regulations, Amoco requests that the Commission declare that LL&E cannot receive payments for the gas in question in excess of the just and reasonable rate determined in Opinion Nos. 772 and 772-A. Amoco also requests that the Commission declare that LL&E's suit against Amoco in the U.S. District Court is an unlawful attempt by LL&E to avoid compliance with the Commission's orders.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, not later than 30 days after publication of this notice in the **Federal Register.** All protests will be considered by the Commission but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of the petition filed in this proceeding are on file with the Commission and available for inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13803 Filed 6-16-87; 8:45 am]

BILLING CODE 6717-01-M

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[1] 56 FPC 922 (1976).

[2] 56 FPC 3540 (1978).

[3] 574 F.2d 204 (5th Cir. 1978).

[Docket Nos. RP86-99-003 and TA87-4-4-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

June 12, 1987.

Take notice that on June 4, 1987, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021 tendered for filing with the Commission the revised tariff sheets listed below in its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2, containing changes in rates for effectiveness on July 1, 1987:

First Revised Volume No. 1

Twentieth Revised Sheet No. 7
Fifth Revised Sheet No. 7-A
Eleventh Revised Sheet No. 9

Original Volume No. 2

Seventh Revised Sheet No. 27

Granite State states that its proposed rates are applicable to wholesale sales to its two affiliated distributor company customers: Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities) and to a transportation service rendered Northern Utilities.

According to Granite State, the filing combines further compliance with the

requirements of the Stipulation and Agreement settling Docket No. RP86–99–000 with a regular cycle purchased gas cost adjustment. Granite State further states that the Base Tariff Rates on Twentieth Revised Sheet No. 7 reduce those made effective on December 1, 1986 under the settlement in Docket No. RP86–99–000 to reflect the reduction in the federal statutory income tax rate as of July 1, 1987, in accordance with provisions of Article III, Paragraph C, of the settlement. It is said that the effect of the reduction in the Base Tariff Rates reduces revenues from the rates for sales to Bay State and Northern Utilities by $52,002 annually. Granite State also states that the reduction in the federal income tax rate reduces the cost based transportation rate under Rate Schedule T–3 for service to Northern Utilities, as shown on Seventh Revised Sheet No. 27.

According to Granite State, the revised rates on Twentieth Revised Sheet No. 7 reflect its current gas costs as of July 1, 1987 and the surcharge for the amortization of unrecovered gas recorded as of March 31, 1987. It is said that the effect of the purchased gas cost adjustments and the surcharge results in an annual increase in the gas costs in the rates for sales to Bay State of $3,821,533 and an annual increase in the gas costs in the rates for sales to Northern Utilities of $289,081.

According to Granite State, copies of its filing were served upon its customers, Bay State and Northern Utilities, and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire. Granite State also states that copies of its filing were served on the intervenors in Docket No. RP86–99–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 19, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–13804 Filed 6–16–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP86–161–004 and CP86–596–002]

MIGC, Inc.; Tariff Filing

June 12, 1987.

Take notice that on June 4, 1987, MIGC, Inc. (MIGC) 10701 Melody Drive, Denver, Colorado 80234, filed in Docket No. RP86–161 and CP86–596 various revised and original tariff sheets to its FERC Gas Tariff. On April 20, 1987, the Commission in the above-referenced proceeding issued an "Order Approving Offer of Settlement Subject to Modification and Issuing Blanket Certificate." In its ordering paragraph B, the Commission required MIGC to file revised tariff sheets in order to conform with the modifications set forth in the body of the order. MIGC has filed tariff sheets that conform to the Commission's April 20, 1987, order.

Specifically, MIGC has tendered for filing and acceptance tariff sheets which are applicable to firm and interruptible transportation of natural gas for others by MIGC pursuant to Part 284 of the Commission's Regulations. The following revised, substitute and original tariff sheets were filed:

Ninth Revised Sheet No. 1
First Revised Sheet No. 1A
First Revised Sheet No. 8
First Revised Sheet No. 9
Substitute Fortieth Revised Sheet No. 32
First Revised Sheet No. 38
First Revised Sheet Nos. 39–52
First Revised Sheet No. 58
Original Sheet No. 58–A
First Revised Sheet No. 224
First Revised Sheet Nos. 267 through 339

MIGC proposes that all tariff sheets related to the implementation of Order No. 436 be assigned an effective date of June 1, 1987, such that those sheets may become effective for the first full month after MIGC accepted the blanket certificate issued in Docket No. CP86–596. MIGC has also filed tariff sheets reflecting a reduction in its effective fuel and unaccounted for percentage from 5 percent to 2.0237 percent.

In its April 20, 1987, order in the above-captioned proceedings, the Commission ordered MIGC to refile procedures for implementing § 284.10 of its regulations. Sheet Nos. 38, 58, and 58–A include these changes, most notably the inclusion of an election available to firm sales customers to convert their sales service to firm transportation service on sixty-days notice.

The Commission in its April 20, 1987, order also required MIGC to refile its capacity allocation provisions applicable to firm sales and firm transportation service to place into effect *pro rata* capacity-allocation procedures. Section 4.4(a) of the Transportation General Terms and Conditions (TGT&C) has been revised to conform with the Commission's order. In addition, section 4.5 of the TGT&C has been amended to include procedures applicable to *pro rata* curtailment of firm services in the event circumstances exist under which there is insufficient capacity on part or all of MIGC's system to accommodate all requests for firm transportation service and the requirements of MIGC's firm sales customers. Conforming changes have been made in the Rate Schedule FTS–1 Form of Service Agreement.

The Commission further ordered MIGC to revise the balancing and penalty provisions set forth in its Offer of Settlement to include a forty-five day notice period applicable the imposition of balancing penalties where MIGC controls the receipt point through which a Shipper tenders gas for transportation. This change is set forth on Sheet No. 292. The Commission also ordered that MIGC's penalties not exceed forfeiture of title to gas in the event of overdeliveries or twice MIGC's sales rate in the event of Shipper underdeliveries. Conforming changes can be found on Sheet Nos. 292 and 293.

MIGC requests whatever waivers the Commission may deem necessary for the acceptance of this filing.

Protests and motions to intervene may be filed with the Federal Regulatory Energy Commission, Washington, DC 20426, in accordance with the Rules of Practice and Procedure, 18 CFR 385.211 or 385.214 on or before June 19, 1987. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–13805 Filed 6–16–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI87-659-000 et al.]

Phillips Petroleum Co.; Notice of Applications for Permanent Abandonment and Blanket Certificates With Pregranted Abandonment

Take notice that Phillips Petroleum Company (Phillips) has filed applications pursuant to section 7 of the Natural Gas Act for authorization to permanently abandon service and for blanket certificates with pregranted abandonment to sell natural gas in interstate commerce, as described herein. Phillips requests that the blanket certificates be granted in accordance with the Notice of Proposed Rulemaking in Docket No. RM87-16-000.

The circumstances presented in the applications meet the criteria for consideration and an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order Nos. 436 and 436-A, Issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protests with reference to said applications should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the preceeding. Any person wishing to become a party in any proceeding herein must file a petition to interven in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price Per Mcf	Pressure base
CI87-659-000, B, June 1, 1987.	Phillips Petroleum Company, 336 Home Savings & Loan Building, Bartlesville, Okla. 74004.	Northern Natural Gas Company, Division of Enron Corp., Vinegarone Field, Val Verde County, Texas.	(1)	
CI87-662-000, A, June 1, 1987.	.....do.....	.....do.....	(3)	
CI87-661-000, B, June 1, 1987.	.....do.....	Northern Natural Gas Company, Division of Enron Corp., East Hansford Area, Hansford County, Texas.	(2)	
CI87-660-000, A, June 1, 1987.	.....do.....	.....do.....	(3)	

[1] Applicant requests permanent abandonment of certain sales to Northern Natural Gas Company, Division of Enron Corp., covered under a contract dated June 10, 1982, on file with the Commission as Applicant's FERC Gas Rate Schedule No. 291. Applicant states that it has continued to experience substantially reduced takes without payment. Phillips and Northern executed a letter agreement which terminated the contract effective May 15, 1987. Applicant states that the gas is NGPA section 104 1973-1974 biennium and 106(a)(2) gas, and that the estimated deliverability is approximately 4,000 Mcf/day. Applicant proposes to sell the gas on the interstate spot market and has therefore filed for a blanket certificate in Docket No. CI87-662-000.

[2] Applicant requests abandonment of certain sales to Northern Natural Gas Company, Division of Enron Corp., covered under a contract dated July 1, 1982, on file with the Commission as Applicant's FERC Gas Rate Schedule No. 294. Applicant states that it has continued to experience substantially reduced takes without payment. Phillips and Northern executed a letter agreement which terminated the contract effective May 15, 1987. Applicant states that the gas is NGPA section 106(a)(2) and 108 gas, and that the estimated deliverability is approximately 3,000 Mcf/day. Applicant proposes to sell the gas on the interstate spot market and has therefore filed for a blanket certificate in Docket No. CI87-660-000.

[3] Applicant requests in Docket Nos. CI87-660-000 and CI87-662-000 blanket certificates with pregranted abandonment to make sales for resale in interstate commerce of gas subject to the abandonments in Docket Nos. CI87-661-000 and CI87-659-000. Applicant requests that the Commission waive Part 154 of its Regulations as to the establishment and maintenance of rate schedules. Applicant also requests permission to collect rate adjustments without filing §§ 154.94(h) and 154.94(k) affidavits. Applicant requests that the blank certificate authorization be granted in accordance with the recent Notice of Proposed Rulemaking, Docket No. RM87-16-000.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 87-13806 Filed 6-16-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA87-41-000]

Primos Production; Notice of Petition for Adjustment

June 12, 1987.

On March 31, 1987, Primos Production (Primos) filed with the Commission a petition for adjustment under section 502(c) of the National Gas Policy Act of 1987 (NGPA) requesting waiver of § 271.805 of the Commission's regulations (18 CFR 271.805). Primos seeks Commission waiver of § 271.805 to permit production from the Culpepper *et al.* No. 3 well located in Quachita Parish, Louisiana, to qualify as stripper well gas under NGPA section 108 during the period of October 1, 1981 through December 6, 1983.

Primos states that the subject well received a final NGPA section 108 determination on May 26, 1981. However, upon subsequent application of an enhanced recovery technique, production from the well increased above the 60 Mcf per-day stripper well limit during one 90-day qualifying period. Specifically, Primos asserts that from July through September 1981 the well produced an average of 61.05 Mcf per-day, due to the enhanced recovery technique but that production since than has not exceeded the 60 Mcf per-day stripper well limit for any 90-day period.

Primos, states that through "inadvertant oversight" it did not realize the production limit had been exceeded and therefore did not initiate the notification and petition procedures required by § 271.805. In addition, Primos states that it took measures to rectify its oversight after the Commission's audit staff notified it in August 1986 that the subject well would be disqualified for the period October 1, 1981 through December 6, 1983. Pursuant to those discussions, Primos states that it applied for and was granted a determination by the Louisiana Office of Conservation that the excess well production for the period in question resulted from the application of a recognized enhanced recovery technique. Primos now claims that without Commission waiver of the § 271.805 requirements, it will suffer special hardship, including an out-of pocket loss on the well.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's rules of practice and procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions in Rule 214. All motions to intervene must be filed within 15 days after publication of the notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13807 Filed 6-16-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-9-005]

Southwest Gas Corp. Notice of Change in Rates Pursuant to Purchased Gas Cost Adjustment

June 12, 1987

Take notice that Southwest Gas Corporation (Southwest) on June 5, 1987, tendered for filing Thirty-fourth Revised Sheet No. 10 applicable to its FERC Gas Tariff, Original Volume No. 1. The purpose of said filing is to adjust Southwest's base tariff rate to reflect the effect of the Tax Reform Act of 1986 pursuant to the Stipulation and Agreement in settlement of Docket No. RP86-9-000. As provided for in such Stipulation and Agreement, Southwest has requested an effective date of July 1, 1987, the effective date of the change in the federal income tax rate.

Southwest states that a copy of this filing has been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National Corporation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 19, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13808 Filed 6-16-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-666-000]

Texaco Inc., Texaco Producing Inc., and Gettty Oil Co.; Notice of Application

June 11, 1987.

Take notice that on June 2, 1987, Texaco Inc. (TI), Texaco Producing Inc. (TPI), and Getty Oil Company (Getty) (herein collectively referred to as Applicants), filed an application pursuant to section 7 of the Natural Gas Act (NGA), 15 U.S.C. 717f, and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulation thereunder (18 CFR Part 157), for a blanket limited-term abandonment authorization for released gas and a blanket limited-term certificate of public convenience and necessity authorizing the sale for resale in interstate commerce of such abandoned gas produced by each Applicant and its joint interest owners, with pregranted permanent abandonment of such sales, to be effective for one (1) year from the date of issuance of Commission Order. Applicants request that all categories of gas be included in the authorization.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 25, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rule of practice and procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13809 Filed 6-16-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST87-2045-000 et al.]

Transok, Inc., et al.; Notice of Self-Implementing Transactions

June 12, 1987

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G-S" indicates transportation by an interstate pipeline company on behalf of any shipper pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to a transaction reflected in this notice should on or before June 26, 1987, 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 385.214 or 385.211). 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 party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[1] Notice of a transaction does not consitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

Docket No. [1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration Date [2]	Transportation rate Φ/MMBTU)
ST87-2045	Transok, Inc	Panhandle Eastern Pipe Line Co	04-01-87	C	08-29-87	26.25
ST87-2046	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	04-01-87	B		
ST87-2047	Panhandle Eastern Pipe Line Co	Union Electric Co	04-01-87	B		
ST87-2048	Trunkline Gas Co	Michigan Gas Utilities	04-01-87	B		
ST87-2049	Trunkline Gas Co	Consumers Power Co	04-01-87	B		
ST87-2050	United Gas Pipe Line Co	Niagara Mohawk Power Corp	04-01-87	B		
ST87-2051	United Gas Pipe Line Co	Louisiana Gas Marketing Co	04-01-87	B		
ST87-2052	Tennessee Gas Pipeline Co	Columbia Gas Dist. Co. of Ohio, et al	03-31-87	B		
ST87-2053	Transwestern Pipeline Co	Southern California Gas Co	04-01-87	B		
ST87-2054	Transwestern Pipeline Co	Southern California Gas Co	04-01-87	B		
ST87-2055	SNG Intrastate Pipeline, Inc	Galaxy Energies, Inc	04-01-87	C	08-29-87	22.00
ST87-2056	Valero Transmission Co	Texas Eastern Transmission Corp	04-02-87	C		
ST87-2057	Delhi Gas Pipline Corp	El Paso Natural Gas Co	04-02-87	C		
ST87-2058	Delhi Gas Pipeline Corp	Cincinnati Gas and Electric Co	04-02-87	C		
ST87-2059	Transcontinental Gas Pipe Line Corp	Southern California Gas Co., et al	04-01-87	B		
ST87-2060	Trasnscontinental Gas Pipe Line Corp	Elizabethtown Gas Co	04-01-87	B		
ST87-2061	Northern Natural Gas Co	South Jersey Gas Co	04-01-87	B		
ST87-2062	Northern Natural Gas Co	Wisconsin Power and Light Co	04-01-87	B		
ST87-2063	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	04-02-87	B		
ST87-2064	Supenn Pipeline Co	Southern Natural Gas Co	04-22-87	C	09-19-87	11.00
ST87-2065	Lear Gas Transmission Co	El Paso Natural Gas Co	04-02-87	C	08-30-87	25.20
ST87-2066	Lear Gas Transmission Co	el Paso Natural Gas Co	04-02-87	C	08-30-87	25.20
ST87-2067	Lear Gas Transmission Co	Panhandle Eastern Pipe Line Co	04-02-87	C	08-30-87	28.20
ST87-2068	Lear Gas Transmission Co	Texas Gas Transmission Corp	04-02-87	C	08-30-87	21.50
ST87-2069	Mountain Fuel Resources, Inc	Mountain Fuel Supply Co	04-03-87	B		
ST87-2070	ANR Pipeline Co	Wisconsin Public Service Co	04-03-87	B		
ST87-2071	ANR Pipeline Co	Michigan Consolidated Gas Co	04-03-87	B		
ST87-2072	ANR Pipeline Co	Michigan Conolidated Gas Co	04-03-87	B		
ST87-2073	ANR Pipeline Co	Columbia Gas of Ohio, Inc	04-03-87	B		
ST87-2074	ANR Pipeline Co	Michigan Cosolidated Gas Co	04-03-87	B		
ST87-2075	ANR Pipeline Co	Wisconsin Power and Light Co	04-03-87	B		
ST87-2076	ANR Pipeline Co	Michigan Consolidated Gas Co	04-03-87	B		
ST87-2077	ANR Pipeline Co	Washington Gas Light Co	04-03-87	B		
ST87-2078	ANR Pipeline Co	Wisconsin Natural Gas Co	04-03-87	B		

Docket No. [1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration Date [2]	Transportation rate Φ/MMBTU)
ST87-2079	ANR Pipeline Co	Michigan Consolidated Gas Co	04-03-87	B		
ST87-2080	ANR Pipeline Co	Michigan Consolidated Gas Co	04-03-87	B		
ST87-2081	United Texas Transmission Co	El Paso Natural Gas Co	04-03-87	C		
ST87-2082	United Gas Pipe Line Co	Wellhead Ventures Corp	04-03-87	B		
ST87-2083	Natural Gas Pipeline Co. of America	Consumers Power Co	04-03-87	B		
ST87-2084	Natural Gas Pipeline Co. of America	Pontchartrain Natural Gas System	04-03-87	B		
ST87-2085	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co	04-03-87	B		
ST87-2086	Truckline Gas Co	Consumers Power Co	04-03-87	B		
ST87-2087	ANR Pipeline Co	Ohio Valley Gas Corp	04-03-87	B		
ST87-2088	ANR Pipeline Co	Wisconsin Public Service Co	04-03-87	B		
ST87-2089	ANR Pipeline Co	Michigan Consolidated Gas Co	04-03-87	B		
ST87-2090	Columbia Gulf Transmission Co	Natural Gas Pipeline Co. of America	04-03-87	G		
ST87-2091	ANR Pipeline Co	Lincoln Natural Gas Co	04-03-87	B		
ST87-2092	ANR Pipeline Co	Madison Gas & Electric Co	04-03-87	B		
ST87-2093	ANR Pipeline Co	Michigan Consolidated Gas Co	04-03-87	B		
ST87-2094	ANR Pipeline Co	NGC Intrastate Pipeline Co	04-03-87	B		
ST87-2095	ANR Pipeline Co	Wisconsin Power and Light Co	04-03-87	B		
ST87-2096	ANR Pipeline Co	Wisconsin Fuel and Light Co	04-03-87	B		
ST87-2097	Northern Natural Gas Co	Minnegasco, Inc	04-06-87	B		
ST87-2098	Northern Natural Gas Co	Long Island Lighting Co	04-06-87	B		
ST87-2099	Columbia Gulf Transmission Co	Washington Gas Light Co	04-06-87	B		
ST87-2100	Columbia Gulf Transmission Co	City of Richmond, et al	04-06-87	B		
ST87-2101	Columbia Gulf Transmission Co	Cincinnati Gas and Electric Co., et al	04-06-87	B		
ST87-2102	Trunkline Gas Co	Consumers Power Co	04-06-87	B		
ST87-2103	Trunkline Gas Co	Consumers Power Co	04-06-87	B		
ST87-2104	Trunkline Gas Co	Consumers Power Co	04-06-87	B		
ST87-2105	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co	04-06-87	B		
ST87-2106	Trunkline Gas Co	Consumers Power Co	04-06-87	B		
ST87-2107	Trunkline Gas Co	Consumers Power Co	04-06-87	B		
ST87-2108	Trunkline Gas Co	Consumers Power Co	04-06-87	B		
ST87-2109	Natural Gas Pipeline Co. of America	Mobil Vanderbilt-Beaumont Pipeline Co	04-06-87	B		
ST87-2110	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	04-06-87	B		
ST87-2111	Houston Pipe Line Co	Natural Gas Pipeline Co. of America	04-06-87	C		
ST87-2112	Oasis Pipe Line Co	Natural Gas Pipeline Co. of America	04-06-87	C		
ST87-2113	Williams Natural Gas Co	Peoples Natural Gas Co	04-06-87	B		
ST87-2114	Texas Gas Transmission Corp	Louisville Gas & Electric Co	04-07-87	B		
ST87-2115	Texas Gas Transmission Corp	City of Morganfield	04-07-87	B		
ST87-2116	Arkla Energy Resources	Cincinnati Gas and Electric Co	04-07-87	B		
ST87-2117	Tennessee Gas Pipeline Co	Peoples Natural Gas Co., et al	04-07-87	B		
ST87-2118	Panhandle Eastern Pipe Line Co	Iowa-Illinois Gas & Electric Co	04-07-87	B		
ST87-2119	Cincinnati Gas and Electric Co	Union Light, Heat & Power Co	04-08-87	G-HT		
ST87-2120	Transok, Inc	Natural Gas Pipeline Co. of America	04-08-87	C	09-05-87	26.25
ST87-2121	Transok, Inc	Panhandle Eastern Pipe Line Co	04-08-87	C	09-05-87	26.25
ST87-2122	Louisiana Intrastate Gas Corp	Arkla Energy Resources	04-08-87	C	09-05-87	22.40
ST87-2123	Colorado Interstate Gas Co	Coastal States Gas Transmission Co	04-08-87	B		
ST87-2124	Natural Gas Pipeline Co. of America	Midwest Gas Co	04-08-87	B		
ST87-2125	Panhandle Eastern Pipe Line Co	Michigan Consolidated Gas Co	04-08-87	B		
ST87-2126	Panhandle Eastern Pipe Line Co	Michigan Consolidated Gas Co	04-08-87	B		
ST87-2127	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co	04-08-87	B		
ST87-2128	Panhandle Eastern Pipe Line Co	Michigan Consolidated Gas Co	04-08-87	B		
ST87-2129	Panhandle Eastern Pipe Line Co	Michigan Consolidated Gas Co	04-08-87	B		
ST87-2130	Williams Natural Gas Co	KPL Gas Service Co	04-08-87	B		
ST87-2131	Texas Eastern Transmission Corp	Indiana Gas Co	04-08-87	B		
ST87-2132	Texas Eastern Transmission Corp	Central Illinois Public Service Co	04-08-87	B		
ST87-2133	Texas Eastern Transmission Corp	Consumers Power Co	04-08-87	B		
ST87-2134	Northwest Pipeline Corp	Llano, Inc	04-08-87	B		
ST87-2135	Trunkline Gas Co	Consumers Power Co	04-09-87	B		
ST87-2136	Trunkline Gas Co	Quivira Gas Co	04-09-87	B		
ST87-2137	Iowa-Illinois Gas & Electric Co	Natural Gas Pipeline Co. of America	04-09-87	G-HT		
ST87-2138	Tennessee Gas Pipeline Co	Coronado Transmission Co	04-09-87	B		
ST87-2139	Midcon Texas Pipeline Corp	Trunkline Gas Co	04-10-87	C		
ST87-2140	Midcon Texas Pipeline Corp	Natural Gas Pipeline Co. of America	04-10-87	C		
ST87-2141	Midcon Texas Pipeline Corp	Natural Gas Pipeline Co. of America	04-10-87	C		
ST87-2142	Transcontinental Gas Pipe Line Corp	South Carolina Pipeline Corp., et al	04-10-87	B		
ST87-2143	Transcontinental Gas Pipe Line Corp	Southern Gas Pipeline Co	04-10-87	B		
ST87-2144	Transcontinental Gas Pipe Line Corp	New Jersey Natural Gas Co	04-10-87	B		
ST87-2145	Transcontinental Gas Pipe Line Corp	Western Kentucky Gas Co., et al	04-10-87	B		
ST87-2146	Northern Natural Gas Co	Northern States Power Co. of Wisconsin	04-10-87	B		
ST87-2147	Northern Natural Gas Co	Peoples Natural Gas Co	04-10-87	B		
ST87-2148	El Paso Natural Gas Co	Southern California Gas Co	04-10-87	B		
ST87-2149	ONG Transmission Co	Northern Natural Gas Co	04-10-87	C	09-07-87	10.00
ST87-2150	Colorado Interstate Gas Co	Iowa Electric Light & Power Co., et al	04-10-87	B		
ST87-2151	Colorado Interstate Gas Co	Quivira Gas Co	04-10-87	B		
ST87-2152	United Gas Pipe Line Co	IMC Pipeline Co., Inc	04-10-87	B		
ST87-2153	Sea Robin Pipeline Co	Columbia Gas of KY, et al	04-10-87	B		
ST87-2154	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co	04-13-87	B		
ST87-2155	Seagull Shoreline System	Northern Natural Gas Co	04-13-87	C	09-10-87	13.04
ST87-2156	Texas Gas Transmission Corp	Philadelphia Electric Co	04-13-87	B		
ST87-2157	Texas Gas Transmission Corp	Western Kentucky Gas Co	04-13-87	B		
ST87-2158	Texas Gas Transmission Corp	CSX Intrastate Gas Co	04-13-87	B		
ST87-2159	Tennessee Gas Pipeline Co	Berkshire Gas Co., et al	04-13-87	B		
ST87-2160	Williams Natural Gas Co	Kansas Pipeline Co., L.P.	04-13-87	B		
ST87-2161	Williams Natural Gas Co	Phenix Transmission Co	04-13-87	B		
ST87-2162	Panhandle Eastern Pipe Line Co	Northern Indiana Fuel & Light Co., Inc	04-13-87	B		
ST87-2163	Gas Transport, Inc	Borg-Warner Chemicals, Inc	04-13-87	G-EU		
ST87-2164	Tennessee Gas Pipeline Co	East Ohio Gas Co	04-13-87	B		
ST87-2165	Valero Transmission Co	El Paso Natural Gas Co	04-14-87	C		
ST87-2166	MID Louisiana Gas Co	Manville Sales Corp	04-14-87	G-EU		
ST87-2167	Transok, Inc	Natural Gas Pipeline Co. of America	04-14-87	C	09-11-87	26.25
ST87-2168	Transok, Inc	Panhandle Eastern Pipe Line Co	04-14-87	C	09-11-87	26.25
ST87-2169	Transok, Inc	Panhandle Eastern Pipe Line Co	04-14-87	C	09-11-87	26.25
ST87-2170	Colorado Interstate Gas Co	Associated Intrastate Pipeline Co	04-14-87	B		

Docket No. [1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration Date [2]	Transportation rate (¢/MMBTU)
ST87-2171	United Gas Pipe Line Co	Louisiana State Gas Corp	04-14-87	B		
ST87-2172	Williams Natural Gas Co	Missouri Public Service	04-14-87	B		
ST87-2173	ANR Pipeline Co	Wisconsin Power and Light Co	04-14-87	B		
ST87-2174	ANR Pipeline Co	Fountaintown Gas Co	04-14-87	B		
ST87-2175	United Gas Pipe Line Co	City of Milton	04-14-87	B		
ST87-2176	Transok, Inc	Natural Gas Pipeline Co. of America	04-14-87	C	09-11-87	26.25
ST87-2177	ANR Pipeline Co	Wisconsin Gas Co	04-14-87	B		
ST87-2178	ANR Pipeline Co	Community Natural Gas Co., Inc	04-14-87	B		
ST87-2179	United Gas Pipe Line Co	Atlanta Gas Light Co., et al	04-15-87	B		
ST87-2180	United Gas Pipe Line Co	Baltimore Gas and Electric Co., et al	04-15-87	B		
ST87-2181	United Gas Pipe Line Co	Atlanta Gas Light Co., et al	04-15-87	B		
ST87-2182	United Gas Pipe Line Co	Texas Southern Pipeline, Inc	04-15-87	B		
ST87-2183	United Gas Pipe Line Co	City of Milton	04-15-87	B		
ST87-2184	Natural Gas Pipeline Co. of America	Illinois Power Co	04-15-87	B		
ST87-2185	Natural Gas Pipeline Co. of America	Northern Indiana Public Service Co	04-15-87	B		
ST87-2186	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	04-15-87	B		
ST87-2187	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	04-15-87	B		
ST87-2188	Tennessee Gas Pipeline Co	Bay State Gas Co	04-15-87	B		
ST87-2189	ARKLA Energy Resources	Wisconsin Gas Co	04-15-87	B		
ST87-2190	Tennessee Gas Pipeline Co	Nashville Gas Co., et al	04-15-87	B		
ST87-2191	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	04-09-87	B		
ST87-2192	Transcontinental Gas Pipe Line Corp	Northern Indiana Publ. Serv. Co., et al	04-16-87	B		
ST87-2193	Transcontinental Gas Pipe Line Corp	South Carolina Pipeline Corp	04-16-87	B		
ST87-2194	Transcontinental Gas Pipe Line Corp	Houston Pipe Line Co	04-16-87	B		
ST87-2195	Transcontinental Gas Pipe Line Corp	Lunchburg Gas Co	04-16-87	B		
ST87-2196	Transcontinental Gas Pipe Line Corp	Columbia Gas Dist. of Ohio, Inc., et al	04-16-87	B		
ST87-2197	United Gas Pipe Line Co	Texas Industrial Energy Co	04-16-87	B		
ST87-2198	United Gas Pipe Line Co	Olympic Pipeline Co	04-16-87	B		
ST87-2199	United Gas Pipe Line Co	Louisiana Resources Co	04-16-87	B		
ST87-2200	United Gas Pipe Line Co	Texas Southern Pipeline, Inc., et al	04-16-87	B		
ST87-2201	Texas Eastern Transmission Corp	Central Illinois Public Service Co	04-17-87	B		
ST87-2202	Texas Eastern Transmission Corp	Great River Gas Co	04-17-87	B		
ST87-2203	Texas Eastern Transmission Corp	Columbia Gas of Ohio, Inc	04-17-87	B		
ST87-2204	Tennessee Gas Pipe Line Co	Boston Gas Co	04-17-87	B		
ST87-2205	Tennessee Gas Pipe Line Co	Connecticut Light & Power Co	04-17-87	B		
ST87-2206	Tennessee Gas Pipe Line Co	Essex County Gas Co	04-17-87	B		
ST87-2207	Texas Eastern Transmission Corp	East Ohio Gas Co	04-17-87	B		
ST87-2208	Tennessee Gas Pipe Line Co	Fitchburg Gas & Electric Light Co	04-17-87	B		
ST87-2209	Tennessee Gas Pipe Line Co	Valley Resources, Inc	04-17-87	B		
ST87-2210	Tennessee Gas Pipe Line Co	Commonwealth Gas Co	04-17-87	B		
ST87-2211	Texas Eastern Transmission Corp	Excel Intrastate Pipeline Co	04-17-87	B		
ST87-2212	Northern Natural Gas Co	Intratex Gas Co	04-17-87	B		
ST87-2213	Delhi Gas Pipeline Corp	New York State Electric and Gas Co	04-17-87	C		
ST87-2214	Delhi Gas Pipeline Corp	United Cities Gas Co	04-17-87	C		
ST87-2215	Arkla Energy Resources	Citizens Gas and Coke Utility	04-17-87	B		
ST87-2216	Natural Gas Pipeline Co. of America	Illinois Power Co	04-20-87	B		
ST87-2217	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	04-20-87	B		
ST87-2218	Natural Gas Pipeline Co. of America	Niagara Mohawk Power Corp	04-20-87	B		
ST87-2219	Sea Robin Pipeline Co	Louisville Gas & Electric Co., et al	04-20-87	B		
ST87-2220	Sea Robin Pipeline Co	NGC Intrastate Pipeline Co	04-20-87	B		
ST87-2221	Columbia Gas Transmission Corp	Eastern Shore Natural Gas Co	04-20-87	B		
ST87-2222	Columbia Gas Transmission Corp	Peoples Natural Gas Co	04-20-87	B		
ST87-2223	Columbia Gas Transmission Corp	Texas Eastern Transmission Corp	04-20-87	G		
ST87-2224	Columbia Gulf Transmission Co	Eastern Shore Natural Gas Co	04-20-87	G		
ST87-2225	Panhandle Eastern Pipe Line Co	Consumers Power Co	04-20-87	B		
ST87-2226	Trunkline Gas Co	Consumers Power Co	04-20-87	B		
ST87-2227	Ong Transmission Co	Natural Gas Pipeline Co. of America	04-16-87	C	09-13-87	10.00
ST87-2228	Ong Transmission Co	Williams Natural Gas Co	04-16-87	C	09-13-87	10.00
ST87-2229	Seagull Shoreline System	Amoco Gas Co	04-17-87	C	09-14-87	13.04
ST87-2230	ANR Pipeline Co	Michigan Consolidatded Gas Cop	04-20-87	B		
ST87-2231	ANR Pipeline Co	Northern Indiana Public Service Co	04-20-87	B		
ST87-2232	ANR Pipeline Co	Ohio Valley Gas Corp	04-20-87	B		
ST87-2233	ANR Pipeline Co	Northern Intrastate Pipeline Co	04-20-87	B		
ST87-2234	ANR Pipeline Co	Yankee Pipeline Co	04-20-87	B		
ST87-2235	ANR Pipeline Co	Southeastern Michigan Gas Co	04-20-87	B		
ST87-2236	ANR Pipeline Co	City Gas Co	04-20-87	B		
ST87-2237	ANR Pipeline Co	Wisconsin Natural Gas Co	04-20-87	B		
ST87-2238	ANR Pipeline Co	Wisconsin Public Service Co	04-20-87	B		
ST87-2239	ANR Pipeline Co	Michigan Gas Utilities	04-20-87	B		
ST87-2240	Colorado Interstate Gas Co	Iowa Southern Utilities Co., et al	04-20-87	B		
ST87-2241	Colorado Interstate Gas Co	Quivira Gas Co	04-20-87	B		
ST87-2242	ANR Pipeline Co	Michigan Consolidated Gas Co	04-20-87	B		
ST87-2243	ANR Pipeline Co	Indiana Gas Co	04-20-87	B		
ST87-2244	ANR Pipeline Co	Wisconsin Public Service Co	04-20-87	B		
ST87-2245	Lear Gas Transmission Co	Panhandle Eastern Pipe Line Co	04-21-87	C	09-18-87	25.20
ST87-2246	Texas Gas Transmission Corp	Indiana Gas Co	04-20-87	B		
ST87-2247	Texas Gas Transmission Corp	City of Hamilton	04-20-87	B		
ST87-2248	Texas Gas Transmission Corp	City of Hamilton	04-20-87	B		
ST87-2249	Texas Gas Transmission Corp	Indiana Gas Co	04-20-87	B		
ST87-2250	Texas Gas Transmission Corp	Indiana Gas Co	04-20-87	B		
ST87-2251	Transamerican Gas Transmission Corp	ANR Pipeline Co	04-21-87	C		
ST87-2252	Transamerican Gas Transmission Corp	Tennessee Gas Pipeline Co	04-21-87	C		
ST87-2253	Transamerican Gas Transmission Corp	Trunkline Gas Co	04-21-87	C		
ST87-2254	Transamerican Gas Transmission Corp	Texas Gas Transmission Corp	04-21-87	C		
ST87-2255	Transamerican Gas Transmission Corp	Columbia Gulf Transmission Co	04-21-87	C		
ST87-2256	Transamerican Gas Transmission Corp	Columbia Gas Transmission Corp	04-21-87	C		
ST87-2257	Transamerican Gas Transmission Corp	Southern Natural Gas Co	04-21-87	C		
ST87-2258	Transamerican Gas Transmission Corp	Transcontinental Gas Pipe Line Corp	04-21-87	C		
ST87-2259	Transamerican Gas Transmission Corp	United Gas Pipe Line Co	04-21-87	C		
ST87-2260	Transamerican Gas Transmission Corp	Natural Gas Pipeline Co. of America	04-21-87	C		
ST87-2261	Transamerican Gas Transmission Corp	El Paso Natural Gas Co	04-21-87	C		
ST87-2262	Transamerican Gas Transmission Corp	Texas Eastern Transmission Corp	04-21-87	C		

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ST87-2263	Lear Gas Transmission Co	El Paso Natural Gas Co	04-21-87	C	09-18-87	25.20
ST87-2264	Williams Natural Gas Co	Llano, Inc	04-21-87	B		
ST87-2265	Colorado Interstate Gas Co	Public Service Co. of Colorado	04-21-87	B		
ST87-2266	Tennessee Gas Pipeline Co	Pennsylvania Gas and Water Co	04-21-87	B		
ST87-2267	Tennessee Gas Pipeline Co	Illinois Power Co	04-21-87	B		
ST87-2268	Tennessee Gas Pipeline Co	Orange and Rockland Utilities, Inc	04-21-87	B		
ST87-2269	Tennessee Gas Pipeline Co	Connecticut Light & Power Co	04-21-87	B		
ST87-2270	Tennessee Gas Pipeline Co	Public Service Electric and Gas Co	04-21-87	B		
ST87-2271	Tennessee Gas Pipeline Co	Long Island Lighting Co	04-21-87	B		
ST87-2272	Tennessee Gas Pipeline Co	Commonwealth Gas Co	04-21-87	B		
ST87-2273	United Gas Pipeline Co	Texline Gas Co	04-22-87	B		
ST87-2274	United Gas Pipeline Co	Atlanta Gas Light Co., et al	04-22-87	B		
ST87-2275	United Gas Pipeline Co	Wellhead Ventures Corp	04-22-87	B		
ST87-2276	Natural Gas Pipeline Co. of America	Eastex Gas Transmission	04-22-87	B		
ST87-2277	Louisiana Intrastate Gas Corp	Tennessee Gas Pipeline Co	04-22-87	C	09-19-87	22.40
ST87-2278	Tennessee Gas Pipeline Co	Connecticut Natural Gas Corp	04-22-87	B		
ST87-2279	Enogex Inc		04-23-87	C	09-20-87	28.50
ST87-2280	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	04-23-87	B		
ST87-2281	Consolidated Gas Transmission Corp	East Ohio Gas Co	04-23-87	B		
ST87-2282	Consolidated Gas Transmission Corp	Rochester Gas & Electric Corp	04-23-87	B		
ST87-2283	Consolidated Gas Transmission Corp	Peoples Natural Gas Co	04-23-87	B		
ST87-2284	Consolidated Gas Transmission Corp	Peoples Natural Gas Co	04-23-87	B		
ST87-2285	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	04-23-87	B		
ST87-2286	Consolidated Gas Transmission Corp	East Ohio Gas Co	04-23-87	B		
ST87-2287	Consolidated Gas Transmission Corp	Hope Gas, Inc	04-23-87	B		
ST87-2288	Consolidated Gas Transmission Corp	Hope Gas, Inc	04-23-87	B		
ST87-2289	Consolidated Gas Transmission Corp	Hope Gas, Inc	04-23-87	B		
ST87-2290	Consolidated Gas Transmission Corp	East Ohio Gas Co	04-23-87	B		
ST87-2291	Consolidated Gas Transmission Corp	East Ohio Gas Co	04-23-87	B		
ST87-2292	Consolidated Gas Transmission Corp	East Ohio Gas Co	04-23-87	B		
ST87-2293	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	04-23-87	B		
ST87-2294	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	04-23-87	B		
ST87-2295	Consolidated Gas Transmission Corp	New York State Electric and Gas Co	04-23-87	B		
ST87-2296	Consolidated Gas Transmission Corp	New York State Electric and Gas Co	04-23-87	B		
ST87-2297	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	04-23-87	B		
ST87-2298	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	04-23-87	B		
ST87-2299	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	04-23-87	B		
ST87-2300	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	04-23-87	B		
ST87-2301	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	04-23-87	B		
ST87-2302	Natural Gas Pipeline Co of America	Houston Pipe Line Co	04-23-87	B		
ST87-2303	Tennessee Gas Pipeline Co	Valley Gas Co	04-23-87	B		
ST87-2304	Tennessee Gas Pipeline Co	Pennsylvania Gas and Water Co	04-23-87	B		
ST87-2305	Tennessee Gas Pipeline Co	Pennsylvania and Southern Gas Co	04-23-87	B		
ST87-2306	Tennessee Gas Pipeline Co	Fitchburg Gas & Electric Light Co	04-23-87	B		
ST87-2307	Consolidated Gas Transmission Corp	East Ohio Gas Co	04-23-87	B		
ST87-2308	Consolidated Gas Transmission Corp	East Ohio Gas Co	04-23-87	B		
ST87-2309	Consolidated Gas Transmission Corp	Hope Gas, Inc	04-23-87	B		
ST87-2310	Consolidated Gas Transmission Corp	East Ohio Gas Co	04-23-87	B		
ST87-2311	Consolidated Gas Transmission Corp	East Ohio Gas Co	04-23-87	B		
ST87-2312	Consolidated Gas Transmission Corp	Rochester Gas & Electric Corp	04-23-87	B		
ST87-2313	Panhandle Eastern Pipe Line Co	Michigan Consolidated Gas Co	04-23-87	B		
ST87-2314	Panhandle Eastern Pipe Line Co	Michigan Consolidated Gas Co	04-23-87	B		
ST87-2315	Williams Natural Gas Co	KPL Gas Service Co	04-23-87	B		
ST87-2316	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	04-23-87	B		
ST87-2317	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	04-23-87	B		
ST87-2318	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	04-23-87	B		
ST87-2319	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	04-23-87	B		
ST87-2320	Consolidated Gas Transmission Corp	Yankee Resources, INC	04-23-87	B		
ST87-2321	Consolidated Gas Transmission Corp	Rochester Gas & Electric Corp	04-23-87	B		
ST87-2322	Equitable Gas Co	Philadelphia Gas Works	04-23-87	B		
ST87-2323	Williams Natural Gas Co	Associated Intrastate Pipeline Co	04-23-87	B		
ST87-2324	Northern Natural Gas Co	Taft Pipeline Co	04-23-87	B		
ST87-2325	Taft Pipeline Co	Transwestern Pipeline Co	04-23-87	C	09-21-87	09.60
ST87-2326	Houston Pipe Line Co	Northern Illinois Gas Co	04-23-87	C		
ST87-2327	Oasis Pipe Line Co	Northern Natural Gas Co	04-23-87	C		
ST87-2328	Houston Pipe Line Co	Texas Eastern Transmission Corp	04-23-87	C		
ST87-2329	Houston Pipe Line Co	Natural Gas Pipeline Co. of America	04-23-87	C		
ST87-2330	Houston Pipe Line Co	Texas Eastern Transmission Corp	04-23-87	C		
ST87-2331	Tennessee Gas Pipeline Co	Connecticut Light & Power Co	04-23-87	B		
ST87-2332	Tennessee Gas Pipeline Co	Long Island Lighting Co	04-23-87	B		
ST87-2333	Texas Gas Transmission Corp	Michigan Gas Utilities, et al	04-23-87	B		
ST87-2334	Valero Transmission Co	Texas Eastern Transmission Corp	04-23-87	C		
ST87-2335	Texas Eastern Transmission Corp	Peoples Natural Gas Co	04-23-87	B		
ST87-2336	Texas Eastern Transmission Corp	Public Service Electric and Gas Co	04-23-87	B		
ST87-2337	Williams Natural Gas Co	City of Chanute	04-23-87	B		
ST87-2338	Texas Eastern Transmission Corp	Wisconsin Public Service Co	04-23-87	B		
ST87-2339	Equitable Gas Co	Equitable Gas Co	04-27-87	B		
ST87-2340	Texas Eastern Transmission Corp	Baltimore Gas and Electric Co	04-27-87	B		
ST87-2341	Texas Eastern Transmission Corp	Baltimore Gas and Electric Co	04-27-87	B		
ST87-2342	Texas Eastern Transmission Corp	New Jersey Natural Gas Co	04-27-87	B		
ST87-2343	Transcontinental Gas Pipe Line	Delmarva Power and Light Co	04-27-87	B		
ST87-2344	Transcontinental Gas Pipe Line	Louisville Gas and Elecric Co., et al	04-27-87	B		
ST87-2345	Transcontinental Gas Pipe Line	Delhi Gas Pipeline Corp	04-27-87	B		
ST87-2346	Transcontinental Gas Pipe Line	Elizabethtown Gas Co	04-27-87	B		
ST87-2347	Transcontinental Gas Pipe Line	Elizabethtown Gas Co	04-27-87	B		
ST87-2348	Transcontinental Gas Pipe Line	Mountaineer Gas Co., et al	04-27-87	B		
ST87-2349	Louisiana Intrastate Gas Corp	Texas Eastern Transmission Corp	04-27-87	C	09-24-87	22.40
ST87-2350	United Gas Pipe Line Co	Niagara Mohawk Power Corp	04-27-87	B		
ST87-2351	Natural Gas Pipeline Co. of America	Bishop Pipeline Corp	04-27-87	B		
ST87-2352	Panhandle Eastern Pipe Line Co	Michigan Gas Utilities	04-27-87	B		
ST87-2353	Trunkline Gas Co	Michigan Gas Utilities	04-27-87	B		
ST87-2354	Tennessee Gas Pipeline Co	Pennsylvania Gas and Water Co	04-27-87	B		

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ST87-2355	Tennessee Gas Pipeline Co	Bay State Gas Co	04-27-87	B		
ST87-2356	Lear Gas Transmission Co	Texas Gas Transmission Co	04-27-87	C	09-24-87	21.50
ST87-2357	Channel Industries Gas Co	Florida Gas Transmission Co	04-27-87	C		
ST87-2358	Texas Eastern Transmission Corp	UGI Corp	04-28-87	B		
ST87-2359	Texas Eastern Transmission Corp	Baltimore Gas and Light Co	04-28-87	B		
ST87-2360	Texas Eastern Transmission Corp	Dayton Power and Light Co	04-28-87	B		
ST87-2361	Texas Eastern Transmission Corp	Equitable Gas Co	04-28-87	B		
ST87-2362	Texas Eastern Transmission Corp	City of Richmond Dept. of Pub. Util	04-28-87	B		
ST87-2363	Texas Eastern Transmission Corp	Public Service Electric and Gas Co	04-28-87	B		
ST87-2364	Texas Eastern Transmission Corp	Public Service Electric and Gas Co	04-28-87	B		
ST87-2365	Enogex Inc		04-28-87	C	09-25-87	28.50
ST87-2366	Enogex Inc	Phillips Gas Pipeline Co	04-28-87	C	09-25-87	28.50
ST87-2367	Enogex Inc		04-28-87	C	09-25-87	28-50
ST87-2368	Williams Natural Gas Co	Golden Gas Energies, Inc	04-28-87	B		
ST87-2369	United Gas Pipe Line Co	TPC Pipeline, Inc	04-28-87	B		
ST87-2370	United Gas Pipe Line Co	Atlanta Gas Light Co., et al	04-28-87	B		
ST87-2371	United Gas Pipe Line Co	Mississippi Gulf So. Transmission Co	04-28-87	B		
ST87-2372	Natural Gas Pipeline Co. of America	Eastex Gas Transmission Co	04-28-87	B		
ST87-2373	Sea Robin Pipeline Co	Mountaineer Gas Co., et al	04-28-87	B		
ST87-2374	United Gas Pipe Line Co	Texas Southern Pipeline, Inc., et al	04-24-87	B		
ST87-2375	United Gas Pipe Line Co	Entex, Inc	04-28-87	B		
ST87-2376	Sea Robin Pipeline Co	Tennessee River Intra. Gas Co., et al	04-28-87	B		
ST87-2377	United Gas Pipe Line Co	Texas Gulf South Pipeline Co	04-28-87	B		
ST87-2378	United Gas Pipe Line Co	United Texas Transmission Co	04-28-87	B		
ST87-2379	Sea Robin Pipeline Co	Texas Pipeline Co., et al	04-28-87	B		
ST87-2380	Natural Gas Pipeline Co. of America	Bishop Pipeline Corp	04-28-87	B		
ST87-2381	United Gas Pipe Line Co	Mississippi Gulf So. Transmission Co	04-28-87	B		
ST87-2382	Ong Transmission Co	Northern Natural Gas Co	04-29-87	C	09-26-87	10.00/12.00
ST87-2383	Ong Transmission Co	Panhandle Eastern Pipe Line Co	04-29-87	C	09-26-87	10.00
ST87-2384	Ong Transmission Co	Natural Gas Pipeline Co. of America	04-29-87	C	09-26-87	10.00
ST87-2385	Ong Transmission Co	Williams Natural Gas Co	04-29-87	C	09-26-87	10.00
ST87-2386	Ong Transmission Co	Northern Natural Gas Co	04-29-87	C	09-26-87	10.00
ST87-2387	Ong Transmission Co	ANR Pipeline Co	04-29-87	C	09-26-87	10.00
ST87-2388	ONG Transmission Co	Williams Natural Gas Co	04-29-87	C	09-26-87	10.00
ST87-2389	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	04-29-87	B		
ST87-2390	United Gas Pipe Line Co	Wellhead Ventures Corp	04-29-87	B		
ST87-2391	United Gas Pipe Line Co	Clajon Transportation, Inc	04-29-87	B		
ST87-2392	United Gas Pipe Line Co	Michigan Consolidated Gas Co	04-29-87	B		
ST87-2393	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	04-29-87	B		
ST87-2394	Houston Pipe Line Co	Transcontinental Gas Pipe Line Corp	04-29-87	C		
ST87-2395	Transcontinental Gas Pipe Line Corp	Corpus Christi Industrial Pipeline Co	04-29-87	B		
ST87-2396	Transcontinental Gas Pipe Line Corp	Southern California Gas Co., et al	04-29-87	B		
ST87-2397	Transcontinental Gas Pipe Line Corp	Yankee Taft Co	04-29-87	B		
ST87-2398	Transcontinental Gas Pipe Line Corp	Wisconsin Public Service Co., et al	04-29-87	B		
ST87-2399	Acadian Gas Pipeline System	Texas Eastern Transmission Corp	04-30-87	C		
ST87-2400	ONG Transmission Co	United Gas Pipe Line Co	04-30-87	C	09-27-87	10.00
ST87-2401	ONG Transmission Co	Williams Natural Gas Co	04-30-87	C	09-27-87	10.00
ST87-2402	ONG Transmission Co	Transwestern Pipeline Co	04-30-87	C	09-27-87	10.00
ST87-2403	ONG Transmission Co	Getty Gas Gathering, Inc	04-30-87	C	09-27-87	24.32
ST87-2404	ONG Transmission Co	Natural Gas Pipeline Co. of America	04-30-87	C	09-27-87	10.00
ST87-2405	ONG Transmission Co	ANR Pipeline Co	04-30-87	C	09-27-87	10.00
ST87-2406	ONG Transmission Co	Natural Gas Pipeline Co. of America	04-30-87	C	09-27-87	10.00
ST87-2407	Consolidated Gas Transmission Corp	East Ohio Gas Co	04-21-87	B		
ST87-2408	Consolidated Gas Transmission Corp	Peoples Natural Gas Co	04-30-87	B		
ST87-2409	Florida Gas Transmission Co	Longhorn Pipeline Co	04-30-87	B		
ST87-2410	DOW Pipeline Co	United Gas Pipe Line Co	04-30-87	C	09-27-87	14.94/16.20
ST87-2411	DOW Pipeline Co	Natural Gas Pipeline Co. of America	04-30-87	C	09-27-87	14.94/16.20
ST87-2412	Louisiana Resources Co	United Gas Pipe Line Co	04-30-87	C	09-27-87	26.43
ST87-2413	Williams Natural Gas Co	KPL Gas Service Co	04-30-87	B		
ST87-2414	Williams Natural Gas Co	KPL Gas Service Co	04-30-87	B		
ST87-2415	Lear Gas Transmission Co	El Paso Natural Gas Co	04-30-87	C	09-27-87	25.20
ST87-2416	Lear Gas Transmission Co	Panhandle Eastern Pipe Line Co	04-30-87	C	09-27-87	25.20
ST87-2417	Lear Gas Transmission Co	El Paso Natural Gas Co	04-30-87	C	09-27-87	25.20
ST87-2418	Lear Gas Transmission Co	Panhandle Eastern Pipe Line Co	04-30-87	C	09-27-87	26.20
Below are six petitions for rate approval. They are noticed at this time to give interested parties the appropriate 150-day comment period.						
ST86-2552	Delhi Gas Pipeline Corp	Arkansas Louisiana Gas Co	04-27-87	C	09-24-87	54.70
ST86-2566	Delhi Gas Pipeline Corp	Transwestern Pipeline Co	04-27-87	C	09-24-87	54.70
ST87-0683	Taft Pipeline	Northern Natural Gas Co	04-30-87	C	09-27-87	09.60
ST87-1393	Taft Pipeline	Northern Natural Gas Co	04-30-87	C	09-27-87	09.60
ST87-1774	Taft Pipeline	Northern Natural Gas Co	04-30-87	C	09-27-87	09.60
ST87-1889	Taft Pipeline	Iowa-Illinois Gas & Electric Co	04-30-87	C	09-27-87	09.60

[1] Notice of transactions does not constitute a determination that filings comply with Commission regulations in accordance with Order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/18/85).

[2] The intrastate pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(B)(2) of the Commission's regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 87-13810 Filed 6-16-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87-432-000]

Utah Power and Light Co.; Filing

(June 11, 1987)

Take notice that on May 4, 1987 and May 14, 1987, as further supplemented by a filing of May 22, 1987, Utah Power and Light Company (UPL) tendered for filing an executed agreement between itself and various wholesale customers resolving issues with regard to UPL's earlier filing in Docket No. ER87-24-001.

UPL's filing includes a petition for approval of settlement and motion for expedited treatment, executed settlement agreements with all affected resale customers, a list of resale customers, orders of Public Service Commissions for the states of Utah, Idaho, and Wyoming, a list of refunds to resale customers.

Copies of this filing have been served upon all of the Company's resale customers and the State Commissions of Utah, Idaho, and Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 19, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-13766 Filed 6-16-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-42014E; FRL-3219-2]

Approval of the Amended Montana Plan for Certification of Pesticide Applicators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Approval of the amended Montana plan for certification of pesticide applicators.

SUMMARY: The Director of the Montana Department of Agriculture submitted to EPA an amendment to their approved plan for the certification of applicators of restricted use pesticides. This amendment to the Montana certification plan permits certification of Compound 1080 Livestock Protection Collar applicators and applicators of restricted wood preservative pesticides. This amendment also includes all changes in laws, regulations, policies, and Department organization that have occurred since the Montana Certification Plan was approved December 13, 1976. EPA issued a Notice of Intent to approve the amended plan and allowed 30 days for public comment. The Notice was published in the **Federal Register** of November 26, 1986 (51 FR 42927). Only one comment was received and is noted below. This notice announces the approval of the Montana amended plan.

EFFECTIVE DATE: The amended plan is effective June 17, 1987.

FOR FURTHER INFORMATION CONTACT: Dean Chaussee, Montana Operations Office, Environmental Protection Agency, Region VIII, Federal Office Building, Drawer 10096, 301 South Park, Helena, MT 59626-0096, (406) 449-5414.

SUPPLEMENTARY INFORMATION: Only one comment letter was received during the public comment period. This letter, from the Montana Wool Growers Association, supported the Montana Department of Agriculture's amended plan and urged EPA approval of the amendment authorizing certification of the Compound 1080 Livestock Protection Collar applicators. The Montana amended plan, as submitted by the Montana Department of Agriculture, meets all of the regulatory requirements imposed by EPA. Accordingly, approval is granted to the plan, as amended, addressing certification of applicators of Compound 1080 Collars and or restricted wood preservatives, and addressing changes in laws and regulations, described in the **Federal Register** of November 26, 1986 (51 FR 42927), that have occurred since the Plan was approved in December 1976.

Dated: June 4, 1987.

James J. Scherer,

Regional Administrator, EPA, Region VIII.

[FR Doc. 87-13840 Filed 6-16-87; 8:45 am]

BILLING CODE 6560-50-M

[PF-483; FRL-3219-3]

Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of pesticide petitions proposing the establishment of tolerances and/or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

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 #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:

Registration Division (TS-767C), Attention: Product Manager (PM) (named in the petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person, contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone number	Address
Dennis Edwards (PM 12)	Rm. 202, CM #2, 703-557-2386	EPA, 1921 Jefferson Davis Hwy., Arlington, VA 22202.
Lois Rossi (PM 21)	Rm. 227, CM #2, 703-557-1900	Do.
Mr. Robert Taylor (PM 25)	Rm. 245, CM #2, 703-557-1800	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and/or food and feed additive (FAP) petitions as follows proposing the establishment and or amendment of tolerances or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

Initial Filing

1. *PP 7F3530.* Janssen Pharmaceutica, 40 Kingsbridge Rd., Piscataway, NJ 08854, proposes amending 40 CFR 180.413 by establishing a regulation to permit the residues of the fungicide imazalil (1-(2-(2,4-dichlorophenyl)-2-(2-propenyloxy) ethyl)-1H-imidazole and its metabolite 1-(2,4-dichlorophenyl)-2-(1H-imidazole-1-yl)-1-ethanol in or on melons (whole) at 5.0 ppm; melons (pulp) at 0.7 ppm; corn, sweet, kernels and cobs at 0.05 ppm; corn, sweet, forage at 0.05 ppm; citrus (whole) at 10.0

ppm; citrus (pulp) at 0.2 ppm; citrus (peel) at 10.0 ppm; and imazalil (1-(2-(2,4-dichlorophenyl)-2-(2-propenyloxy)ethyl)-1H-imidazole, its metabolite 1-(2,4-dichlorophenyl)-2-(1H-imidazole-1-y1)-1-ethanol, and (3-(1-(2,4-dichlorophyenyl)-2-(1H-imidazole-1-y1)ethoxy1)-1,2-propane diol) in or on milk, meat, fat, and meat by-products (except liver) of cattle, goats, hogs, horses and sheep at 0.02 ppm and liver of cattle, goats, hogs, horses and sheep at 1.5 ppm. The proposed analytical method for determining residues is liquid gas chromatography. (PM 21)

2. *FAP 7H5538.* Union Carbide, Agricultural Products Company, Inc., P.O. Box 12014, T.W. Alexandria Drive, Reserach Triangle Park, NC 27709, proposes amending 21 CFR 561.386 by establishing a regulation to permit the residues of the insecticide thiodicarb (dimethyl N, N' (thiobism[(methylimino) carbonyloxy])-bis[ethanimidothioate]), and its metabolite methomyl in or on peanut soapstock at 0.8 ppm; sorghum bran at 30.0 ppm; and sorghum shorts at 30.0 ppm. The proposed analytical method for determining residues is gas chromatography. (PM–12)

3. *PP 7F3526.* Mr. J.S. Lovell, Union Carbide, Agricultural Products Company, Inc., P.O. Box 12014, T.W. Alexandria Drive, Research Triangle Park, NC 27709, proposes amending 40 CFR 180.407 by establishing a regulation to permit the residues of the insecticide thiodicarb (dimethyl N,N' (thiobis [(methylimino) carbonyloxy])-bis[ethanimidothioate]), and its metabolite methomyl in or on peanut vines at 50.0 ppm; peanut hay at 50.0 ppm; peanut hulls at 3.0 ppm; peanut nutmeats at 0.2 ppm; sorghum forage at 50.0 ppm; sorghum grain at 20.0 ppm; and sorghum stover at 50.0 ppm. The proposed analytical method for determining residues is gas chromatography. (PM–12)

Amendments

4. *PP 7F3535.* In the **Federal Register** of January 16, 1987 (52 FR 1909), EPA amended the tolerance for residues of daminozide (40 CFR 180.246) in or on apples, reducing the tolerance level from 30 to 20 ppm. This tolerance is in effect until July 31, 1987. The agency has received a petition to extend the tolerance. Uniroyal Chemical Co., Inc., 74 Amity Rd., Bethany, CT 06525, proposes amending 40 CFR 180.246 by establishing a regulation that would continue to permit the residues of the plant growth regulator daminozide (but anedionic acid mono (2,2-dimethylhydrazide)) in or on apples at 20 ppm after July 31, 1987. The proposed analytical method for determining residues is gas chromatography-mass spectrometry. (PM–25)

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

Dated: June 12, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87–13860 Filed 6–16–87 8:45 am]

BILLING CODE 6560-50-M

[OPP-30194A; FRL-3218-3]

Approval of Pesticide Product Registration; Dow Chemical Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by Dow Chemical Co., to register the pesticide product Lontrel 205 Herbicide, containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail:

Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, TS–767C, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of January 21, 1981 (46 FR 6862), which announced that Dow Chemical Co., USA, PO Box 1706, Midland MI 48640, had submitted an application to register the pesticide product Lontrel 205 Herbicide containing the active ingredient 3,6–dichloro–2–pyridinecarboxylic acid at 8.5 percent; an ingredient not included in any previously registered product.

The application as applied for Lontrel 205 Herbicide, was approved as "Curtail 205 Herbicide" on March 23, 1987 (EPA Reg. No. 464–563).

The Agency has considered all required data on the risks associated with the proposed use of (3,6–dichloro–2–pyridinecarboxylic acid) and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of (3,6–dichloro–2–pyridinecarboxylic acid), when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on (3,6–dichloro–2–pyridinecarboxylic acid).

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from Registration Division (TS–767C), Environmental Protection Agency, Registration Support and Emergency Response Branch, 401 M St., SW., Washington, DC 20460.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, Arlington, VA 22202 (703–557–3262). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M Street SW., Washington, DC 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: June 4, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 87–13477 Filed 6–16–87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50670; FRL-3218-4]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS–767c),

Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits.

241–EUP–117. Issuance. American Cyanamid Company, Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 396 pounds of the herbicide ammonium salt of (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-ethyl-3-pyridinecar-boxylic acid on soybeans to evaluate the control of various weeds. A total of 3,960 acres (1987 growing season) are involved; the program is authorized in the States of Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. The experimental use permit is effective from April 8, 1987 to April 8, 1989. A temporary tolerance for residues of the active ingredient in or on soybeans has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

241–EUP–118. Issuance. American Cyanamid Company, Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 2,200 pounds of the herbicides alachlor and 2-[4,5-dihydro-4-methyl-4-(1-methyl-ethyl)-5-oxo-1*H*-imidazol-2-yl]-3-quinolinecarboxylic acid on soybeans to evaluate the control grasses and broadleaf weeds. A total of 1,000 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from May 12, 1987 to May 12, 1989. Permanent tolerances for residues of the active ingredients in or on soybeans have been established (40 CFR 180.249 and 180.426). (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

10182–EUP–41. Extension. ICI Americas, Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897. This experimental use permit allows the use of 224 pounds of the synthetic pyrethroid (±)-alpha-cyano-(3-phenoxyphenyl)methyl(±)-*cis*-3-(*Z*-2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate on peanuts, sorghum grain, sunflower, sweet corn, and winter wheat to evaluate the control of various insects. A total of 1,425 acres are involved; the program is authorized in the States of Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin and Wyoming. The experimental use permit is effective from May 7, 1987 to May 7, 1988. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (George LaRocca, PM 15, Rm. 204, CM#2, (703–557–2400))

10182–EUP–47. Extension. ICI Americas, Inc. Concord Pike and New Murphy Road, Wilmington, DE 19897. This experimental use permit allows the use of 900 pounds of the synthetic pyrethroid (+)–alpha–cyano–(3–phenoxyphenyl)methyl(+)–*cis*–3–(*Z*–2–chloro–3,3,3–trifluoroprop–1–enyl)–2,2–dimethylcyclopropanecarboxylate on cotton to evaluate the control of various insects. A total of 4,500 acres are involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from May 8, 1987 to May 8, 1988. A temporary tolerance for residues of the active ingredient in or on cottonseed has been established. (George LaRocca, PM 15, Rm. 204, CM#2, (703–557–2400))

618–EUP–12. Issuance. Merck and Company, Inc., Hillsborough Road, Three Bridges, NJ 08887. This experimental use permit allows the use of 244.5 pounds of the miticide/insecticide Avermectin B_1 on citrus to evaluate the control of various mites. A total of 3,260 acres are involved; the program is authorized only in the States of California and Florida. The experimental use permit is effective from May 1, 1987 to May 1, 1988. A temporary tolerance for residues of the active ingredient in or on citrus fruits has been established. (George LaRocca, PM 15, Rm. 204, CM#2, (703–577–2400))

524–EUP–68. Issuance. Monsanto Company, 1101 17th Street NW., Washington, DC 20036. This experimental use permit allows the use of 6,282.6 pounds of the herbicides alachlor and 2–[4,5–dihydro–4–methyl–4–(1–methylethyl)–5–oxo–1*H*–imidazol–2–yl]–3–quinolinecarboxylic acid on soybeans to evaluate the control of weeds. A total of 2,830 acres are involved; the program is authorized in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Missouri, Mississippi, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from May 12, 1987 to May 12, 1988. Permanent tolerances for residues of the active ingredients in or on soybeans have been established (40 CFR 180.249 and 180.426). (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136c.

Dated: June 2, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87–13480 Filed 6–16–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection: Asset Marketing Survery—Loans and Real Estate.

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter

35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified above.

Address: Written comments regarding the submission should be addressed to Robert Fishman, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to John Keiper, Assistant Executive Secretary (Administration), Federal Deposit Insurance Corporation, Washington, DC 20429.

Comments: Comments on this collection of information should be submitted on or before July 2, 1987.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Assistant Executive Secretary (Administration) Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-3810.

SUMMARY: The FDIC is requesting OMB approval to collect information from qualified prospective investors who are interested in purchasing loans and real estate held by the FDIC as a result of bank failures. The information is collected on a survey form which the FDIC sends to qualified individuals and organizations who have indicated an interest by responding to FDIC announcements in the media, word of mouth or other means. The FDIC has established a nationwide automated asset marketing system whereby a file containing information about qualified prospective investors interested in purchasing loans or real estate held by the FDIC as a result of bank failures, can be matched with a file containing data about specific loan portfolios or real estate available for sale by the FDIC. This information collection is designed to enable the FDIC to more efficiently sell loans and real estate held by the Corporation. It would take a respondent no more than 15 minutes to read, complete and mail the form to the FDIC.

Dated: June 8, 1987.

Federal Depost Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-13797 Filed 6-16-87; 8:45 am]

BILLING CODE 6714-01-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.: 224-009335-003.

Title: Port of Portland Terminal.

Parties: Members of The Northwest Terminals Association.

Synopsis: The proposed amendment to Agreement No. 224-009335 would permit the members of the Association to modernize this agreement along the lines of 46 CFR, Part 572.

Agreement No.: 224-200005.

Title: Port Authority of New York and New Jersey.

Parties:

Port Authority of New York and New Jersey

Maher Terminals, Inc.

Synopsis: The proposed agreement would allow the surrender of terminal area operated by the Puerto Rico Maritime Shipping Authority and the letting of this area to Maher Terminals, Inc.

By order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 87-13798 Filed 6-16-87; 8:45 am]

BILLING CODE 6730-01-M

[DOCKET NO. 87-12]

In the Matter of Maximum Potential Liability in Independent Ocean Freight Forwarder Bonds; Amended Notice

Interested persons filing replies to the "Notice of Filing of Petition for Declaratory Order" served May 21, 1987, and published in the **Federal Register** of June 3, 1987 (52 FR 20780) should also serve a copy of their replies on Gerald H. Ullman, P.C., counsel for the National Custom Brokers & Forwarders Association of America, 40 Exchange Place, Suite 1300, New York, New York 10005 and Lloyd Provost, President, The Surety Association of America, 100 Wood Avenue South, Iselin, New Jersey 08830.

Joseph C. Polking,

Secretary.

[FR Doc. 87-13795 Filed 6-16-87; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Congenital Syphilis: Reversing the Trend of Rising Incidence; Meeting

ACTION: Notice of meeting—Congenital Syphilis: Reversing the Trend of Rising Incidence.

Time and Date: 8:30 a.m.-4:30 p.m.—July 13-14, 1987

Place: Viscount Hotel, Macon Room, 2061 North Druid Hills Road NE., Atlanta, Georgia 30329.

Status: Open to the public, limited to the space available.

Matters to be considered: The Division of Sexually Transmitted Diseases (STD), Center for Prevention Services (CPS), Centers for Disease Control (CDC), Atlanta, Georgia, is sponsoring this meeting to discuss methods for reversing the trend of rising incidence of congenital syphilis in the United States.

Contact person for more information: Mr. Peter Crippen, Program Services Branch, STD, CPS, CDC, Atlanta, Georgia 30333, Telephones: FTS: 236-1275, Commmercial: (404) 329-1275.

Dated: June 11, 1987.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 87-13747 Filed 6-16-87; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 87M-0159]

Steridyne Laboratories, Inc.; Premarket Approval of Steridyne Dynaspray Sterile Saline Solution

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Steridyne Laboratories, Inc., Los Angeles, CA, for premarket approval, under the Medical Device Amendments of 1976, of Steridyne Dynaspray Sterile Saline Solution. After reviewing the

recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by July 17, 1987.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On October 10, 1986, Steridyne Laboratories, Inc., Los Angeles, CA 90068, submitted to CDRH an application for premarket approval of Steridyne Dynaspray Sterile Saline Solution. The device is indicated for use in the rinsing, heat disinfection, and storage of soft (hydrophilic) contact lenses.

On February 27, 1987, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On April 15, 1987, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above.

The labeling of Steridyne Dynaspray Sterile Saline Solution states that the solution is indicated for use in the rinsing, heat disinfection, and storage of soft (hydrophilic) contact lenses. Manufacturers of soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the **Federal Register** of the approval of a new solution for use with an approved soft contact lens, the manufacturer or holder of the approved PMA of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 17, 1987, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: June 8, 1987.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 87–13768 Filed 6–16–87; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Ophthalmic Devices Panel

Date, time, and place. July 23 and 24, 9 a.m., Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, July 23, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 4 p.m.; open public hearing, July 24, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 4 p.m.; open committee discussion, 4 p.m. to 5 p.m.; Richard E. Lippman, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7320.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 3 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On July 23, the committee will discuss general issues relating to approvals of premarket approval applications (PMA's) for Nd:YAG lasers and intraocular lenses (IOL's), and may discuss specific PMA's for these devices. If discussion of all pertinent Nd:YAG laser or IOL issues is not completed, discussion will be continued the following day. On July 24, the

committee will discuss PMA's for contact lenses and other devices and requirements for PMA approval.

Closed committee deliberation. On July 23 and 24 the committee may discuss trade secret and/or confidential commercial information relevant to PMA's for IOL's, Nd:YAG lasers, contact lenses, or other ophthalmic devices. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

General and Plastic Surgery Devices Panel

Date, time, and place. August 28, 9 a.m., Rm. 503–525A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; closed committee deliberation, 4 p.m. to 5 p.m.; Paul F. Tilton, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7156.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person by July 8, 1987, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments. In addition, those desiring to submit written comments specifically relevant to either of the two reclassification petitions identified below for consideration by the Center and the committee, should submit two copies, except that individuals may submit one copy of the information to the attention of Paul F. Tilton, Center for Devices and Radiological Health, Document Mail Center (HFZ–401), 8757 Georgia Ave., Silver Spring, MD 20910, by July 8, 1987. Comments on the petitions are to be identified with the docket number of the petition to which the comments pertain.

Open committee discussion. The committee will discuss a reclassification petition for gut surgical sutures (Docket No. 87P–0144) and a reclassification petition for absorbable polyglycolide-co-lactide surgical sutures (Docket No. 87P–0161).

Closed committee deliberations. The committee may review and discuss trade secret and/or confidential commercial information relevant to the manufacture of either gut or polyglycolide-co-lactide surgical sutures. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFW–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly

frustrate implementation of proposed agency action, review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: June 11, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87–13769 Filed 6–16–87; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

National Commission on Orphan Diseases; Public Hearing on Public Meeting

AGENCY: Office of the Assistant Secretary for Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health are announcing a forthcoming hearing and meeting of the National Commission on Orphan Diseases scheduled on July 16 and 17, 1987, respectively.

DATE: Date, time and place: July 16, 1987 at 9 a.m.; July 17, 1987, 9 a.m., Department of Public Health (City and County of San Francisco) Building, 101 Grove Street, Room 300, San Francisco, CA 94102. The entire hearing and meeting are open to the public.

FOR FURTHER INFORMATION CONTACT: Written requests to participate in the public hearing should be sent to: Mary C Custer, Ph.D., Executive Secretary, National Commission on Orphan Diseases, Office of the Assistant Secretary for Health, 5600 Fishers Lane, Room 18–38, Rockville, MD 20857, 301–443–6156. Persons desiring more information regarding the responsibilities and activities of the Commission should contact Stephen C. Groft, Pharm. D., Executive Director, National Commission on Orphan Diseases, at the same address and phone number.

Agenda: Open Public Hearing

Persons desiring to make oral presentations based upon their experience, that address the issues and questions described below or additional issues and questions deemed important by the participant should notify the contact person before July 2, 1987 and submit a written statement of the information they will present to the Commission. Oral presentations should primarily address the issues or questions described below and will be limited to ten minutes per presentation. Longer presentations may be summarized orally and submitted in writing for the record in their entirety. Any person attending the hearing who does not request an opportunity to speak in advance of the hearing will be allowed to make an oral presentation at the conclusion of the hearing, if time permits, at the chairperson's discretion.

Interested persons, who are not able to attend the public hearing, may submit data, information, or views in writing to the Commission. These statements should primarily address the issues and questions described below or additional issues and questions deemed important by the participant. These statements should be mailed to the contact person at the address listed above.

In addition to this public hearing, the Commission anticipates that at least three additional public hearings will be schedule during the next nine months in other regions of the country. These hearings will also focus primarily on the issues and questions listed below. Additional information regarding these hearings may be obtained from the contact person listed above.

Questions and Issues for Participants of Public Hearing

1. Have you found that requirements for funding rare disease research grants and contracts differ from those related to more common diseases? What information or assistance may be needed by researchers to facilitate obtaining funding for research on rare diseases?

2. Are research training programs, research facilities, and institutional support available to researchers focusing on rare diseases? Do researchers face special problems in rare disease research? Do the grant and contract review processes of the Federal government, private foundations, or the pharmaceutical and device industry need to be modified to address these special problems? Do these organizations place appropriate priority on rare disease research activities?

3. How do the government, foundations and the pharmaceutical and device industry measure the effectiveness of grants and contracts that they award? Are these measurements appropriate for rare disease research?

What programs have been successful in stimulating the entry of scientist and physicians into clinical research on rare and non-rare diseases? How can interest in rare disease research activities be increased?

5. What activities or programs have been useful in assuring that information obtained in non-rare disease research is transferred, when appropriate, to rare disease and vice versa? Are current methods of tranferring research findings adequate?

6. To what extent are basic and clinical (patient/focused) research and information transfer activities directed towards rare diseases by foundations, the government and the pharmaceutical and device industry?

7. What information about rare diseases do patients, their families, and health care professionals need to have to assist them in dealing with rare diseases? What sources of information have been particularly helpful? What additional information sources (e.g. clearinghouses, hotlines, information compendia) should be developed? Should there be a central office that coordinates the source of information exchange activities?

8. What initiatives (program, legislative, or administrative activities) have been successful in increasing cooperative ventures between Federal agencies and private entities to support rare disease research? What additional

activities need to be developed to increase cooperative efforts?

9. How willing are you to use an investigational drug (i.e., a drug not yet approved by the FDA for general distribution) for treatment? How willing are you to participate in a double blind clinical trial of an investigational drug? A double blind clinical trial is one in which neither you nor your physician know which of several treatments you are receiving. Should investigational drugs for rare diseases be more readily available to physicians and patients for treatment purposes? Under what conditions should they be available? If investigational drugs were more readily available, would this fact affect your willingness to participate in double blind clinical studies of investigational drugs?

10. What role do the rare disease focused voluntary groups play in funding research, assisting research scientists, and in the transfer of information to the general public, to patients and their families, to researchers, and to health professionals? Are there additional roles they could fulfill? How do rare disease focused voluntary organizations acquire, manage and distribute research funds?

11. Is it necessary to extend the provisions of the Orphan Drug Act to include medical foods and devices as orphan products? If so, how should they be defined?

12. Are there other areas of concern directly affecting various aspects of rare diseases, such as, but not limited to the availability and coverage of private and public insurance plans and product liability, to which the Commission should give its attention?

Agenda: Open Public Meeting

Discussion will center on the preparation of a final workplan to guide the activities of the Commission; a final review of questions and issues for four surveys that the Commission has proposed involving federal agencies, researchers, physicians, and patients with rare diseases. The Commission will also discuss a general outline for the report to Congress and hear a presentation on the activities and responsibilities of the Alcohol, Drug Abuse and Mental Health Administration.

SUPPLEMENTARY INFORMATION: Public Law 99-91 (Orphan Drug Amendments of 1985) established the National Commission on Orphan Diseases. The Commission is to assess the activities of the National Institutes of Health (NIH), the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), The Food and Drug Administration (FDA), other public agencies, and private entities in connection with:

(1) Basic research conducted on rare diseases;

(2) The use in research on rare diseases of knowledge developed in other research;

(3) Applied and clinical research on the prevention, diagnosis, and treatment of rare diseases; and

(4) The dissemination to the public, health care professionals, researchers, and drug and medical device manufacturers of knowledge developed in research on rare diseases and other diseases which can be used in the prevention, diagnosis, and treatment of rare diseases.

According to the Orphan Drug Act, a rare disease or condition means any disease or condition which (a) affects fewer than 200,000 persons in the United States, or (b) affects more than 200,000 persons in the United States and for which there is no reasonable expectation that the cost of developing or making available in the United States a drug for such disease or condition will be recovered from sales in the United States.

In assessing the activities of the NIH, ADAMHA, and FDA in connection with research on rare diseases, the Commission is to review.

(1) The appropriateness of the priorities currently placed on research on rare diseases;

(2) The relative effectiveness of grants and contracts when used to fund research on rare diseases;

(3) The appropriateness of specific requirements applicable to applications for funds for research on rare diseases taking into consideration the reasonable capacity of applicants to meet such requirements;

(4) The adequacy of the scientific basis for such research, including the adequacy of the research facilities and research resources used in such research and the appropriateness of the scientific training of the personnel engaged in such research;

(5) The effectiveness of activities undertaken to encourage such research;

(6) The organization of the peer review process applicable to applications for funds for such research to determine if the organization of the peer review process could be revised to improve the effectiveness of the review provided to proposals for research on rare diseases;

(7) The effectiveness of the coordination between the national research institutes of the National Institutes of Health, the institutes of the Alcohol, Drug Abuse, and Mental Health Administration, the Food and Drug Administration, and private entities in supporting such research; and

(8) The effectiveness of activities undertaken to assure that knowledge developed in research on nonrare diseases is, when appropriate, used in research on rare diseases.

The Commission is to transmit to the Secretary and to each House of the Congress a report on the activities of the Commission. The report is to contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for:

(1) A long range plan for the use of public and private resources to improve research into rare diseases and to assist in the prevention, diagnosis, and treatment of rare diseases; and

(2) Such legislation or administrative actions as it considers appropriate.

Meetings of the Commission will be conducted, insofar as is practical, in accordance with the agenda published in the **Federal Register** notices. Changes in the agenda will be announced at the beginning of the open portion of the meeting.

Persons interested in specific agenda items to be discussed in open session may contact Dr. Mary Custer, Executive Secretary of the Commission for the approximate time of discussion.

A list of Commission members and the charter of the Commission will be available at the meeting. Those unable to attend the meeting may request this information or the summary minutes of the meeting from the Executive Secretary.

This notice is issued under 10(a)(1) and (2) of the Federal Advisory Committee Act, Pub. L. 92-463 (5 U.S.C. Appendix I).

Dated: June 8, 1987.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 87-13793 Filed 6-16-87; 8:45am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-87-1706]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of

Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ACTION: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, Telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission; (8) whether the proposal is new, an extention, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Submission of Proposed Information Collection to OMB

Proposal: Application for Project Mortgage Insurance (Rehabilitation).

Office: Housing.

Description of the need for the information and its proposed use: The Secretary of the Department of HUD is authorized to insure, upon application, mortgages on rental housing. This form is required to be completed by all applicants for mortgage insurance on properties to be rehabilitated at the initial stage of processing.

Form number: HUD-92013-R.

Respondents: Businesses or Other For-Profit and Non-Profit Institutions.

Frequency of submission: On Occasion.

Estimated burden hours: 800.

Status: Reinstatement.

Contact: William H. Bornscheuer, HUD, (202) 755-6223; John Allison, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Survey of Mortgage Lending Activity.

Office: Housing.

Description of the need for the information and its proposed use: This form is needed to obtain information on developments in the mortgage market. It it used to monitor such developments and to provide statistical data to Federal, State, and non-governmental entities.

Form number: HUD-136.

Respondents: Businesses or Other For-Profit and Non-Profit Employees.

Frequency of Response: Monthly.

Estimated burden hours: 25,938.

Status: Extension.

Contact: John N. Dickie, HUD, (202) 755-7270; John Allison, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Submission of Proposed Information Collection to OMB

Proposal: Application for Environmental Review Form HUD-92550.

Office: Housing.

Description of the need for the information and its proposed use: A developer or sponsor of a subdivision who desires an environmental review to determine acceptability of a subdivision for participation by HUD provides the information on this form to trigger the environmental review and obtain HUD approval. The HUD processor uses this information when reviewing the subdivision proposal.

Form number: HUD-92250.

Respondents: Businesses or Other For-Profit and Small Businesses or Organizations.

Frequency of response: On Occasion.

Estimated burden hours: 2,500.

Status: Reinstatement.

Contact: Gerald A. White, HUD, (202) 755-6700; John Allison, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Submission of Proposed Information Collection to OMB

Proposal: Section 8 Housing Assistance Payments Program.

Office: Housing.

Description of the need for the information and its proposed use: The Section 8 Housing Assistance Payments Program forms are used to approve budges, requisition funds, and approve actual allowable costs for the Section 8 programs. These forms are used to estimate annual contributions requirements to assure that project costs do not exceed the amount of contract authority authorized.

Form number: HUD-52663, 52672, 52673, and 52681.

Respondents: State or Local Governments.

Frequency of Response: Quarterly and Annually.

Estimated burden hours: 34,889.

Status: Reinstatement.

Contact: Myra E. Newbill, HUD, (202) 755-6477, John Allison, OMB (202) 396-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Submission of Proposed Information Collection to OMB

Proposal: Community Development Block Grants: State's Program.

Office: Community Planning and Development.

Description of the need for the information and its proposed use: The Housing and Community Development Act of 1974, Sections 104(a) and (d) require States to submit to HUD a Final Statement and a Performance and Evaluation Report annually concerning the use of funds made available under Section 106 of the Act. HUD uses this information to determine statutory compliance.

Form number: None.

Respondents: State or Local Government.

Frequency of response: Annually.

Estimated burden hours: 28,910.

Status: Revision.

Contact: Maria B. Ratclitt, HUD, (202) 755-6322 John Allison, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the

Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Submission of Proposed Information Collection to OMB

Proposal: Request for Credit Approval of Substitute Mortgagor.

Office: Housing.

Description of the need for the information and its proposed use: This form is needed when a buyer wants to assume a mortgage insured by HUD. The information is used to release the seller from liability on the note if, when HUD reviews the credits and financial history of the buyer, HUD agrees to the substitution of the debtor.

Form number: HUD–2210.

Respondents: Individuals or Households.

Frequency of submission: On Occasion.

Estimated burden hours: 1,000.

Status: Reinstatement.

Contact: William G. Falen, HUD, (202) 755–6700. John Allison, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 11, 1987.

John T. Murphy,

Director, Information Policy and Management Division.

[FR Doc. 87–13844 Filed 6–16–87; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–919–07–4213–02]

General Meeting of Northern Alaska Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of general meeting of northern Alaska advisory council.

SUMMARY: A general meeting of the Northern Alaska Advisory Council, open to the public, will be held to discuss the following topics:

1. BLM–Alaska 3809 Surface Management Program;
2. General Coldfoot/Wiseman community development concerns; and
3. The proposed Nome Creek Road.

DATES: The meeting will be held from 7:00 p.m. to 9:30 p.m., Wednesday, July 8, 1987, at the Coldfoot Motel, Coldfoot, Alaska, at Milepost 173, Dalton Highway. Public comments on the agenda items will be received by the Council from 8:00 p.m. to 9:00 p.m. Oral comments may be limited by time and it is recommended that public comments be submitted in writing at the meeting.

FOR FURTHER INFORMATION CONTACT: Public Affairs Office, Bureau of Land Management, 1541 Gaffney Road, Fairbanks, Alaska 99703, (907) 356–2345.

Guy E. Baier,

Acting Assistant Director.

June 11, 1987.

[FR Doc. 87–13773 Filed 6–16–87; 8:45 am]

BILLING CODE 4310–84–M

[Ut–942–07–4220–10; U 57025]

Utah; Proposed Withdrawal and Opportunity for Public Meeting

Correction:

In FR Doc. 87–11207 on page 18617 in the issue of Monday, May 18, 1987, make the following correction:

In the middle column, 19 lines from the bottom, "in Daggett County, Utah," should be corrected to read "in Millard County, Utah."

Dated: June 14, 1987.

Orval Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87–13748 Filed 6–16–87; 8:45 am]

BILLING CODE 4310–DQ–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on the theme: "The Role and Effectiveness of PVOs as Agents for Policy Change". This is one of a series of meetings exploring various aspects of "PVO Effectiveness" delineating cases and strategies for enhancing PVOs work as agents of development. The meeting will be one day: Thursday, June 25th from 8:30 a.m. to 5 p.m. in Room 1107 NS. To enter the building use C Street (Diplomatic Entrance) between 21st and 23rd Streets NW., Washington, DC.

Thursday, June 25 1987

The meeting is free and open to the public. However, notification by June 22, 1987 through advisory committee headquarters is required by the Department of State for security reasons.

8:30 a.m.—Welcoming Remarks: Morgan Williams, ACVFA Chairman
9:00 a.m.—PVO Rule in Influencing Agricultural Policy
10:15 a.m.—Coffee break
10:30 a.m.—Case Study: PVO Role in Influencing Micro-Enterprise Policy
11:45 a.m.—Lunch
2:00 p.m.—Case Study: PVO Role in Influencing Health Policy
3:15 p.m.—Coffee Break
3:30 p.m.—Committee Discussion of Issues
5:00 p.m.—Adjourn

There will be AID representatives at the meeting. Any interested person may attend, request to appear before, or file statements with the Advisory Committee. Written statements should be filed prior to the meeting and should be available in twenty five (25) copies.

Persons wishing to attend the meeting must call (703) 235-1684, or write, no later than June 22, to arrange entrance to the Department of State Building. The address is: The Advisory Committee on Voluntary Foreign Aid, Room 250, SA-8, Agency for International Development, Washington, DC. 20523.

Dated: June 4, 1987.

Thomas A. McKay,

Deputy Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 87–13757 Filed 6–16–87; 8:45 am]

BILLING CODE 6116–01–M

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, Fred D. Allen, (703) 875–1573, IRM/PE, Room 1190, SA–14, Washington, DC 20523.

Date submitted: June 8, 1987.

Submitting agency: Agency for International Development.

OMB number: 0412–0017.

Form number: AID 1440–3.

Type of Submission: Renewal.

Title: Contractor's Certificate and Agreement with A.I.D.—Contractor's Invoice and Contract Abstract.

Purpose: When A.I.D. is not a party to a contract which it finances, this form provides the means to collect information and to take appropriate action in the event contractors do not

comply with A.I.D. requirements. The Invoice-and-Contract Abstract identifies the transaction being financed, provides information on the location of the contractor, and participation by small and minority-owned businesses. The information is used by the Agency to identify transactions in order to assure that statutory and regulatory requirements are met, and to provide a basis for requesting appropriate refund if requirements have not been met.

Reviewer: Francine Picoult (202) 395-7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: June 8, 1987.

Fred D. Allen,

Planning and Evaluation Division.

[FR Doc. 87-13756 Filed 6-16-87; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA-406-11]

Ammonium Paratungstate and Tungstic Acid From the People's Republic of China

Determination

On the basis of the information developed in the subject investigation, the Commission unanimously determines, with respect to imports of ammonium paratungstate and tungstic acid from the People's Republic of China, provided for in items 417.40 and 416.40, respectively, of the Tariff Schedules of the United States, that market disruption exists.[1]

Findings and recommendations

Commissioners Eckes, Lodwick, and Rohr find and recommend that in order to remedy the market disruption found with respect to imports of ammonium paratungstate and tungstic acid from the People's Republic of China, it is necessary to impose a quota restricting the combined volume of such imports for a 5-year period to the larger of 1.116 million pounds of tungsten content per year or 7.5 percent of U.S. consumption.

Chairman Liebeler finds and recommends, with the reservations set forth in her written views, that in order to remedy the market disruption found with respect to imports of ammonium paratungstate and tungstic acid from the People's Republic of China, it is necessary to impose a market share quota for a 5-year period restricting the combined volume of such imports to 17.2 percent of U.S. consumption.

Vice Chairman Brunsdale finds and recommends, with the reservations set forth in her written views, that in order to remedy the market disruption found with respect to imports of ammonium paratungstate and tungstic acid from the People's Republic of China, it is necessary to impose a quota restricting the volume of such imports for a 5-year period to 2.114 million pounds of tungsten content per year with respect to ammonium paratungstate and 345,000 pounds of tungsten content per year with respect to imports of tungstic acid.

Background

This report is being furnished to the President pursuant to section 406(a)(3) of the Trade Act of 1974 (19 U.S.C. 2436(a)(3)) and is based on an investigation conducted under section 406(a)(1) of the act. The Commission instituted this investigation effective March 5, 1987, following receipt of a request from the United States Trade Representative.

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 19, 1987 (52 FR 8654). A correction to the notice of institution was published in the **Federal Register** of April 8, 1987 (52 FR 11346). The hearing was held in Washington, DC, on April 29, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on the investigation to the President on June 5, 1987. A public version of the Commission's report, "Ammonium Paratungstate and Tungstic Acid from the People's Republic of China" (Investigation No. TA-406-11, USITC Publication 1982, 1987) contains the views of the Commission and information developed during the investigation.

By order of the Commission.

Issued: June 9, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-13842 Filed 6-16-87; 8:45 am]

BILLING CODE 7020-02-M

[Inv. No. 337-TA-259]

Certain Battery-powered Smoke Detectors; Reprimand of Counsel

On March 27, 1987, the presiding administrative law judge (ALJ) issued an initial determination (ID) (Order No. 32) that Harold V. Stotland, Esq., counsel for complainants in the above-captioned investigation, violated the terms of the protective order issued in the investigation, by serving upon eight proposed respondents copies of documents containing confidential business information pertaining to two of the proposed respondents. In his ID the ALJ ordered that at the evidentiary hearing in this investigation Mr. Stotland not be permitted to "enter his appearance on the record, to examine any witness, make oral arguments, render objections, or otherwise participate in the oral conduct of the hearing." Order No. 32, at 9. The ALJ also recommended to the Commission that "an official reprimand [of Mr. Stotland] be published." *Id.*

Violation of a Commission protective order is a serious matter. In proceedings conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) the Commission relies, to a substantial degree, upon evidence which is confidential business information. Unauthorized disclosure of confidential business information may cause "substantial harm to the competitive position of the [entity] from which the information was obtained. . . ." 19 CFR 201.6. Thus, voluntary compliance with discovery requests for confidential business information largely depends upon the protections against unauthorized disclosure afforded by Commission protective orders. Violations undermine the Commission's ability to obtain such information in future investigations. The integrity of Commission protective orders must be maintained if the Commission is to continue to enjoy the confidence of parties and nonparties who possess confidential business information which the Commission needs to carry out its statutory obligations.

In the instant case, Mr. Stotland failed to protect the confidentiality of information entrusted to him under the terms of the Commission's protective order. Although the ALJ determined that Mr. Stotland acted inadvertently, and that "[h]is good faith cannot be questioned," the ALJ also found that Mr. Stotland's actions were negligent. Order No. 32, at 8. Mr. Stotland was aware of the confidential nature of the

[1] Section 406(e)(2) of the Trade Act of 1974 defines such market disruption as existing whenever "imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry."

information involved, and he should have exercised greater care.

For his negligent breach of a Commission protective order, the Commission herewith reprimands Mr. Harold V. Stotland.

By order of the Commission.

Issued: May 29, 1987.

[FR Doc. 87-13843 Filed 6-16-87; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-19,231]

Essex Industrial Chemicals, Inc., Paulsboro, NJ; Negative Determination Regarding Application for Reconsideration

By an application dated May 4, 1987, the Independent Chemical Workers (ICW) requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance for workers and former workers at Essex Industrial Chemicals, Inc., Paulsboro, New Jersey. The denial notice was signed on March 31, 1987 and published in the **Federal Register** on April 17, 1987 (52 FR 12623).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims that: (1) Essex Industrial Chemicals has been purchasing imported sodium bifluoride since production ceased at the Paulsboro plant in May 1985; (2) one of the firm's domestic suppliers of hydrofluoric acid markets imported acid; and (3) Essex imports hydrofluoric and for one of its affiliates in Kansas at the expense of hydrofluoric production at Paulsboro.

Investigation findings show that the Paulsboro plant closed in February 1987. The Department's decision was based on the investigation's findings that the increased import criterion of Section 222 of the Trade Act of 1974 was not met. Sales of hydrofluoric acid increased in 1986 compared to 1985 and in the first two months of 1987 compared to the same period in 1986. Essex replaced its production of hydrofluoric acid at the Paulsboro plant with production from domestic suppliers. Company imports of hydrofluoric acid have not been supplied to customers of the Paulsboro plant.

The cessation of production of sodium bifluoride at Paulsboro would not form a basis for certification. Section 223(b)(1) of the Trade Act does not permit the certification of workers who were separated from employment more than one year prior to the date of the petition. Accordingly, the Department's factfinding investigation must stay within the period applicable to the petition, which is dated February 10, 1987.

Investigation findings show that although one of Paulsboro's domestic suppliers of hydrofluoric acid has a plant in Canada, none of the Canadian production was shipped to Paulsboro because of quality requirements. Also, investigation findings show that Paulsboro's shipments of hydrofluoric acid to an affiliate in Kansas ceased for all practical purposes in 1982. Within the past year, however, some hydrofluoric acid was shipped to the Kansas affiliate but it accounted for less than two percent of Paulsboro's production.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C., this 5th day of June 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-13726 Filed 6-16-87; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

The following packages are being submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Subject: Filing of Reports—(3133-0033).

Abstract: Each federally insured credit union must file an annual certification with the NCUA or state authority where appropriate, indicating compliance with 12 CFR 748.1 in its entirety.

Frequency: One certification is required each year.

Burden: Less than fifteen minutes is required to complete this requirement.

Respondents: Each federally insured credit union is required to file the certification.

Subject: Supervisory Committee Audits and Verification (3133-0075).

Abstract: The Supervisory Committee of each federal credit union is required to make or cause to be made an annual audit and to submit a report of that audit to the board and a summary report to the credit union members. The committee is also required to make a verfication of members' account.

Frequency: Under normal circumstances an audit will be performed annually and a verification of accounts will be made once every two years.

Burden: The average time required to perform an audit and account verification is 160 hours.

Respondents: All federal credit unions are subject to the information collection requirements.

Subject: Regular Reserves—702.2(3133-0072).

Abstract: A federal credit union desiring to decrease regular reserves or to charge to the regular reserves losses other than losses on loans must submit an application to the Regional Director.

Frequency: A credit union must comply with this information collection only when changes are to be made to the regular reserve as indicated above.

Burden: The average time of 45 minutes is required to complete the required application.

Respondents: This information collection applies only to those federal credit unions described in the above abstract.

Subject: Bylaws, Article IX, Sec. 1(3133-0082).

Abstract: Each federal credit union is required to prepare and maintain on fail a copy of board directors' resolution increasing or decreasing the number of members of the credit committee.

Frequency: This information collection applies only when the board changes the number of credit committee members.

Burden: Less than 15 minutes is required to complete the resolution.

Respondents: This information collection applies only to the credit unions described in the above abstract.

OMB Desk officer: Robert Fishman.

Copies of the above information collection clearance package may be obtained by calling the National Credit Union Administration, Administrative Office on (202) 357–1055.

Written comments and recommendations for the listed information collection should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: June 11, 1987.

Becky Baker,

Secretary of the NCUA Board.

[FR Doc. 87–13785 Filed 6–16–87; 8:45 am]

BILLING CODE 7535-01-M

[Interpretive Ruling and Policy Statement No. 87–1]

Federal Credit Unions; Request for Comments on Proposed Guidelines Regarding Bank Bribery Law

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comments on proposed guidelines.

SUMMARY: The Bank Bribery Amendments Act of 1985 requires that Federal agencies with responsibility for regulating financial institutions establish guidelines to assist financial institution officials in complying with this law. The proposed guidelines were developed by the Interagency Bank Fraud Working Group. The guidelines proposed by the National Credit Union Administration Board (the "Board") encourage federally-insured credit unions to adopt codes of conduct that describe the prohibitions of the bank bribery law. The guidelines also identify situations that, in the opinion of the Board, do not constitute violations of the bribery law. These guidelines do not impose new requirements on federally-insured credit unions. They are designed to help credit unions comply with the bank bribery law.

DATE: Comments should be received on or before July 15, 1987.

ADDRESS: Send written comments to John K. Ianno, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: John K. Ianno at (202) 357–1030.

Guidelines on Bank Bribery Law

Background

The Comprehensive Crime Control Act of 1984 (Pub. L. 98–473, Title I, October 12, 1984) amended the Federal bank bribery law, 18 U.S.C. 215, to prohibit employees, officers, directors, agents, and attorneys of financial institutions from seeking or accepting anything of value in connection with any transaction or business of their financial institution. The amended law also prohibited anyone from offering or giving anything of value to employees, officers, directors, agents, or attorneys of financial institutions in connection with any transaction or business of the financial institution. Because of its broad scope, the 1984 Act raised concerns that it might have made what is acceptable conduct unlawful.

In July 1985, the Department of Justice issued a Policy Concerning Prosecution Under the New Bank Bribery Statute. In that Policy, the Department of Justice discussed the basic elements of the prohibited conduct under section 215, and indicated that cases to be considered for prosecution under the new bribery law entail breaches of fiduciary duty or dishonest efforts to undermine financial institution transactions. Because the statute was intended to reach acts of corruption in the banking industry, the Department of Justice expressed its intent not to prosecute insignificant gift giving or entertaining that does not involve a breach of fiduciary duty or dishonesty.

Congress decided that the broad scope of the statute provided too much prosecutorial discretion. Consequently, Congress adopted the Bank Bribery Amendments Act of 1985 (Pub. L. 99–370, August 4, 1986) to narrow the scope of 18 U.S.C. 215 by adding a new element, namely, an intent to corruptly influence or reward an officer in connection with financial institution business. As amended, section 215 provides in pertinent part:

> Whoever—
>
> (1) corruptly gives, offers, or promises anything of value to any person, with intent to influence or reward an officer, director, employee, agent, or attorney of a financial institution in connection with any business or transaction of such institution; or
>
> (2) as an officer, director, employee, agent, or attorney of a financial institution, corruptly solicits or demands for the benefit of any person, or corruptly accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business or transaction of such institution;
>
> shall be [guilty of an offense].

The law now specifically excepts the payment of bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.[1] This exception is set forth in subsection 215(c).

The penalty for a violation remains the same as it was under the 1984 Act. If the value of the thing offered or received exceeds $100, the offense is a felony punishable by up to five years imprisonment and a fine of $5,000 or three times the value of the bribe or gratuity. If value does not exceed $100, the offense is a misdemeanor punishable by up to one year imprisonment and a maximum fine of $1,000.

In addition, the law now requires the financial institution regulatory agencies to publish guidelines to assist employees, officers, directors, agents, and attorneys of financial institutions to comply with the law. The legislative history of the 1985 Act makes it clear that the guidelines would be relevant to but not dispositive of any prosecutive decision the Department of Justice may make in any particular case. 132 Cong. Rec. 5944 (daily ed. Feb. 4, 1986). Therefore, the guidelines developed by the financial regulatory agencies are not a substitute for the legal standards set forth in the statute. Nonetheless, in adopting its own prosecution policy under the bank bribery statute, the Department of Justice can be expected to take into account the financial institution regulatory agency's expertise and judgment in defining those activities or practices that the agency believes do not undermine the duty of an employee, officer, director, agent, or attorney to the financial institution. *United States Attorneys' Manual* section 9–40.439.

Proposed Guidelines

The proposed guidelines encourage all federally-insured credit unions to adopt internal codes of conduct or written policies or amend their present codes of conduct or policies to include provisions that explain the general prohibitions of the bank bribery law. The proposed guidelines relate only to the bribery law. The proposed guidelines relate only to the bribery law and do not address other areas of conduct that a federally-insured credit union would find advisable to cover in its code of ethics. However, in developing its code of conduct, a federally-insured credit union should be mindful not only of the provisions of the Bank Bribery Act discussed herein, but also of other

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[1] Thus, if such payments were made to a credit union official by a sponsoring organization in the usual course of business they would be excepted from coverage under the law.

provisions of state or Federal law concerning conflicts of interest or ethical considerations. Moreover, regardless of whether a conflict of interest constitutes a criminal violation of the bank bribery statute, it could violate NCUA's Rules and Regulations. Those regulations contain various provisions which prohibit officials, employees and their family members from receiving personal gain in connection with business transactions of the credit union. See, for example, § 703.4(e), 12 CFR 703.4(e), concerning investments; § 701.21(c)(8), 12 CFR 701.21(c)(8), concerning loans; § 701.21(d)(5), 12 CFR 701.(d)(5), concerning preferential lending; § 721.2(c), 12 CFR 721.2(c), concerning group purchasing activities; and § 701.27(d)(6), 12 CFR 701.27(d)(6), concerning CUSO's.

In connection with the Bank Bribery Amendments Act, the code should prohibit, consistent with that statute, any employee, officer, director, agent, or attorney (hereinafter "Credit Union Official") of a federally-insured credit union (hereinafter "credit union") from (1) soliciting for themselves or for a third party (other than the credit union itself) anything of value from anyone in return for any business, service or confidential information of the credit union, and from (2) accepting anything of value (other than normal authorized compensation) from anyone in connection with the business of the credit union either before or after a transaction is discussed or consummated.

The credit union's codes or policies should be designed to alert Credit Union Officials about the bank bribery statute, as well as to establish and enforce written policies on acceptable business practices.

In its code of conduct, the credit union may, however, specify appropriate exceptions to the general prohibition of accepting something of value in connection with credit union business. There are a number of instances where a Credit Union Official, without risk of corruption or breach of trust, may accept something of value from one doing or seeking to do business with the credit union. The most common examples are the business luncheon or the holiday season gift from a customer. In general, there is no threat of a violation of the statute if the acceptance is based on a family or personal relationship existing independent of any business of the institution; if the benefit is available to the general public under the same conditions on which it is available to the Credit Union Official; or if the benefit would be paid for by the credit union as a reasonable business expense if not paid for by another party. By adopting a code of conduct with appropriate allowances for such circumstances, a credit union recognizes that acceptance of certain benefits by its Credit Union Officials does not amount to a corrupting influence on the credit union's transactions.

In issuing guidance under the statute in the areas of business purpose entertainment or gifts, it is not advisable for the Board to establish rules about what is reasonable or normal in fixed dollar terms. What is reasonable in one part of the country may appear lavish in another part of the country. A credit union should seek to embody the highest ethical standards in its code of conduct. In doing this, a credit union may establish in its own code of conduct a range of dollar values which cover the various benefits that its Credit Union Officials may receive from those doing or seeking to do business with the credit union.

The code of conduct should provide that, if a Credit Union Official is offered, receives, or anticipates receiving something of value from a customer beyond what is expressly authorized in the credit union's code of conduct or written policy, the Credit Union Official must disclose that fact to an appropriately designated official of the credit union. The credit union should keep written reports of such disclosures. An effective reporting and review mechanism should prevent situations that might otherwise lead to implications of corrupt intent or breach of trust and should enable the credit union to better protect itself from self-dealing. However, a Credit Union Official's full disclosure evidences good faith only when such disclosure is made in the context of properly exercised supervision and control. Thus, the prohibitions of the bank bribery statute cannot be avoided by simply reporting to management the acceptance of various gifts unless management reviews the disclosures and determines that what is accepted is reasonable and does not pose a threat to the integrity of the credit union.

The Board recognizes that a serious threat to the integrity of a credit union occurs when its Credit Union Officials become involved in outside business interests or employment that give rise to a conflict of interest. Such conflicts of interest may evolve into corrupt transactions that are covered under the bank briberty statute. Accordingly, credit unions are encourage to prohibit, in their codes of conduct or policies, their Credit Union Officials from self-dealing or otherwise trading on their positions with credit unions or accepting from one doing or seeking to do business with the credit union a business opportunity not generally available to the public. In this regard, a credit union's code of conduct or policy should require that its Credit Union Officals disclose all potential conflicts of interest, including those in which they have been inadvertently placed due to either business or personal relationships with customers, suppliers, business associates, or competitors of the credit union.

Exceptions

In its code of conduct or written policy, a credit union may describe appropriate exceptions to the general prohibition regarding the acceptance of things of value in connection with credit union business. These exceptions may include those that:

(a) Permit the acceptance of gifts, gratuities, amenities, or favors based on obvious family or personal relationships (such as those between the parents, children or spouse of a Credit Union Official) where the circumstances make it clear that it is those relationships rather than the business of the credit union concerned which are the motivating factor;

(b) Permit acceptance of meals, refreshments or entertainment of reasonable value in the course of a meeting or other occasion the purpose of which is to hold bona fide business discussions (the credit union may establish a specific dollar limit for such an occasion);

(c) Permit acceptance of loans from other banks or financial institutions on customary terms to finance proper and usual activities of Credit Union Officials, such as home mortgage loans, except where prohibited by law;

(d) Permit acceptance of advertising or promotional material of nominal value, such as pens, pencils, note pads, key chains, calendars, and similar items;

(e) Permit acceptance of discounts or rebates on merchandise or services that do not exceed those available to other customers;

(f) Permit acceptance of gifts of modest value that are related to commonly recognized events or occasions, such as a promotion, new job, wedding, retirement, Christmas, or bar or bat mitzvah (the credit union may establish a specific dollar limit for such an occasion); or

(g) Permit the acceptance of civic, charitable, educational, or religious organizational awards for recognition of service and accomplishment (the credit

union may establish a specific dollar limit for such an occasion).

The policy or code may also provide that, on a case-by-case basis, a credit union may approve of other circumstances, not identified above, in which a Credit Union Official accepts something of value in connection with credit union business, provided that such approval is made in writing on the basis of a full written disclosure of all relevant facts and is consistent with the bank bribery statute.

Disclosure and Reports

To make effective use of these guidelines, the Board recommends the following additional procedures:

(a) The credit union should maintain a copy of any code of conduct or written policy it establishes for its Credit Union Officials, including any modifications thereof.

(b) The credit union should require periodic written acknowledgment from its Credit Union Officials of its code of policy and the officials' agreement to comply therewith.

(c) The credit union should maintain written reports of any disclosures made by its Credit Union Officials in connection with a code of conduct or written policy.

Dated this 10th day of June 1987.

National Credit Union Administration Board.

Becky Baker,

Secretary of the Board.

[FR Doc. 87-13784 Filed 6-16-87; 8:45 am]

BILLING CODE 7535-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 11003919]

Solicitation of Public Comments on License Applications Seeking Authorization to Import Uranium From South Africa; Braunkohle Transport, USA

On June 11, 1987, the Nuclear Regulatory Commission issued an Order, which is appended to this Notice, inviting the parties to the Commission proceeding as well as members of the public to comment on issues raised by eight license applications. These applications, if granted, would authorize the import of uranium of South African-origin into the United States. The initial round of public comments are to be submitted to the Commission by July 13, 1987. All comments will be placed in the Commission's Public Document Room. Reply comments are to be submitted by July 28, 1987. All comments are to be mailed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or delivered to 1717 H Street, NW., Washington, DC, Room 1121 between 8:15 AM and 5 PM, weekdays.

Issued at Washington, DC this 12th day of June, 1987.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

Before Commissioners: Lando W. Zech, Chairman, Thomas M. Roberts, James K. Asselstine, Frederick M. Bernthal, and Kenneth M. Carr.

In the Matter of Braunkohle Transport, USA, (Import of South African Uranium Ore Concentrate); Docket No. 11003919, License Application No. IU-87001; Braunkohle Transport, USA, (Import of South African Natural Uranium Hexafluoride), Docket No. 11003920, License Application No. IU-87002; Braunkohle Transport, USA, (Import of South African Enriched Uranium Hexafluoride), Docket No. 11003921, License Application No. IU-87003; Braunkohle Transport, USA, (Import of South African Enriched Uranium Hexafluoride), Docket No. 11003922, License Application No. IU-87004; Advanced Nuclear Fuels Corp., (Import of South African Enriched Uranium Hexafluoride), Docket No. 11003928, License Application No. ISNM-87005; Edlow International Co. (Import of South African Uranium Ore Concentrate), Docket No. 11003929, License Application No. IU-87006; Edlow International Co., (Import of South African Uranium Hexafluoride), Docket No. 11003930, License Application No. IU-87007; and Edlow International Co., (Import of South African Enriched Uranium Hexafluoride), Docket No. 11003931, License Application No. IU-87008.

Order

[CLI-87-6]

On February 17, 1987 seven members of the United States House of Representatives (Congressmen Ronald V. Dellums, Mervyn M. Dymally, William H. Gray, III, Edward J. Markey, Charles B. Rangel, Bill Richardson and Howard Wolpe), The Oil Chemical and Atomic Workers International Union,[1] The Nuclear Control Institute, American Committee on Africa, Transafrica, Inc., and the Washington Office of Africa filed a Petition for Leave to Intervene and Request for Hearing on the above-captioned import license applications. Each of the applicants seek authorization to import South Africa-origin uranium in various forms. Petitioners seek intervention to argue that (1) the proposed imports, if authorized, would violate the Comprehensive Anti-Apartheid Act of 1986 (Pub. L. No. 99-440) ("Anti-Apartheid Act"); (2) the proposed imports would be inimical to the common defense and security of the United States; (3) the proposed imports would violate the international legal obligations of the United States with respect to Namibia, and (4) that the license applications are deficient because they do not contain all of the information that is required under NRC regulations.

Petitioners request that the Commission: (1) Consolidate the 8 license applications; (2) consolidate consideration of the consolidated license applications with consideration of a petition that these same petitioners filed on February 17, 1987 asking the Commission to revoke 11 existing licenses that authorize the import of South African origin uranium; (3) grant petitioners a hearing as a matter of right on the consolidated applications and revocation request; and, (4) hold a formal adjudicatory public hearing at which interested parties, after engaging in discovery, may present oral and written testimony and conduct cross-examination of witnesses.

After the period for filing intervention petitions had expired, petitioners requested that their petition be amended to include three new parties—Robert L. Chavez, New Mexico State Senator Carlos Cisneros, and Henry Issacs.

The only applicant to respond to the intervention petition was Advanced Nuclear Fuel. It argued that petitioners are not entitled to a hearing as a matter of right because they lack standing, and further asserted that the Commission should not hold a hearing as a matter of discretion.

The NRC staff also argued that petitioners were not entitled to a hearing as a matter of right and concluded that the circumstances did not necessitate the granting of the hearing request as a matter of descretion. The staff noted, however, that the Commission may wish to hold a hearing as a matter of discretion. The staff asserted that should the Commission decide to hold a hearing, it should not be conducted using formal adjudicatory procedures. Staff opposed consolidation of the pending applications with consideration of the license revocation petition filed by petitioners.

After reviewing these submissions, the Commission has determined that it need not resolve the issue whether petitioners are entitled to a hearing as a matter of right. This is because the Commission has concluded that it would be appropriate to order further proceedings in this matter and admit petitioners as parties. The Commission has determined that such proceedings

[1] The Union subsequently withdrew from the proceeding.

would assist it in making the statutory determinations required by the Atomic Energy Act and would be in the public interest. *See* 10 CFR 110.84(a)(1) and (a)(2).

In light of this decision to hold further public proceedings, the request of petitioners to add the three additional parties to their petition is granted. Although their request to intervene was untimely, the grant of this motion would not broaden the scope of the proceeding or delay action on the applications. *See* CFR 110.84(c)(2).

The Commission denies petitioners' request that the proceeding be conducted using formal adjudicatory procedures. Such procedures are not provided for in the Commission's regulations set forth in 10 CFR Part 110. In promulgating those regulations the Commission made the determination that export and import license petitioners frequently involved sensitive foreign policy and national defense considerations and that resolution of such concerns through the use of formal adjudicatory procedures is inappropriate. This certainly is the case here. Use of formal adjudicatory procedures is particularly inappropriate here because the major issues facing the Commission are legal questions regarding what is the scope of the uranium import bar contained in the Anti-Apartheid Act. Legal issues traditionally are resolved through written pleadings, not through use of formal adjudicatory procedures such as cross-examination.

Accordingly, pursuant to 10 CFR 110.85, the hearing will consist of wriitten comments. The Executive Branch, petitioners, applicants, and any other member of the public are invited to submit written comments on the issues raised by the license applications by July 13, 1987. Any participant may submit reply comments responding to the views of other participants by July 28, 1987.

There will be no discovery, but to assist commenters, the NRC staff already has placed documents that it believes to be pertinent to these applications in the Commission's Public Document Room. All comments received by the Commission in response to this order will also be placed in the Public Document Room where they will be available for inspection and copying.

Although participants may address any issue they believe to be relevant to Commission consideration of the import license applications, the Commission is particularly interested in receiving detailed legal analysis based on a review of the legislative history of the Anti-Apartheid Act on the following questions: (1) Did Congress bar only the import of uranium ore and uranium oxide, or did Congress intend to bar all forms of uranium? (2) Does the import bar cover imported uranium regardless of its intended end use, or does it only bar the import of uranium which will be used domestically and not re-exported? (3) Did Congress bar South Africa-origin uranium ore and uranium oxide which has been "substantially transformed" into another form of uranium in countries other than South Africa or the United States? The Commission is also interested in views regarding what constitutes "substantial transformation" of uranium ore or uranium oxide; (4) Did Congress assign to the Executive Branch, or to the NRC, or to both the responsibility for interpreting the scope of section 309(a) of the Anti-Apartheid Act and for implementing that section?

With regard to petitioners' consolidation requests, the Commission is consolidating the eight applications for the sole purpose of receiving public comment. This consolidation does not bar the Commission from acting on the license applications separately at a later date as the issues raised by each application vary. The Commission is not consolidating consideration of these applications with consideration of petitioners' motion to revoke the eleven existing licenses which authorize the import of South Africa-origin uranium.

That request is being handled separately because the legal framework for acting on initial applications differs from that with respect to the revocation requests.

It is so ordered.

Dated at Washington, DC, this 12th day of June, 1987.

For the Commission*.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 87-13812 Filed 6-16-87; 8:45 am]

BILLING CODE 7590-01-M

Bi-weekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all notices of amendments issued, or proposed to be issued from May 21, 1987 through June 5, 1987. The last bi-weekly notice was published on June 3, 1987 (52 FR 20794).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 am to 5:00 pm. Copies of written comments received may be examined at the NRC Public Document Room 1717 H Street, NW., Washington, DC. The filing of

* Commissioner Bernthal was absent when this Order was affirmed. If Commissioner Bernthal had been present, he would have approved it.

requests for hearing and petitions for leave to intervene is discussed below.

By July 17, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (**Project Director**): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of General Counsel, Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Alabama Power Company, Docket No. 50-364, Joseph M. Farley Nuclear Plant, Unit No. 2, Houston County, Alabama

Date of amendment request: May 4, 1987

Description of amendment request: The proposed amendment would modify Technical Specification (TS) 3/4.4.6 surveillance requirements and reporting requirements for testing of the steam generators (SG) in the tubesheet region. The current TS allows tube plugging for indications of excessive tube degradation. Tube sleeving as a repair method is also being considered in a separate proposal by the licensee. However, in the area of the tubesheet a reinforcing effect occurs which is now being considered. A Westinghouse report (WCAP-11314, Revision 2, non-proprietary) describes the technique and analyzes the proposed technical changes which accepts certain defects in the tubesheet area without tube plugging.

The proposed TS changes are identified as F* (F-star) in renumbered TS 4.4.6.2, now TS 4.4.6.2.1 and 4.4.6.2.2. In TS 4.4.6.4 criteria a.6 is revised to delete the definition of plugging or repair defects below F*. Acceptance criteria for F* is added as TS 4.4.6.4.a.11, 12, and 13. Also TS 4.4.6.5.a is changed to require reporting of F* conditions along

with the number of plugged or repaired tubes.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee's analyses contained in the May 4, 1987, letter states the following:

(1) Operation of the Farley Nuclear Plant Unit 2 in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The supporting technical and safety evaluations of the subject criteria [Westinghouse WCAP 11306 Rev. 2, "Tubesheet Roll Region Plugging Criteria, J. M. Farley Nuclear Plant, Series 51 Steam Generators" (Proprietary), WCAP 11314 Rev. 2, (Non Proprietary), and SECL-86-381 Rev. 2] demonstrate that the presence of the tubesheet will enhance the tube integrity in the region of the hardroll by precluding tube deformation beyond its initial expanded outside diameter. The resistance to both tube rupture and tube collapse is strengthened by the presence of the tubesheet in that region. The result of the expansion of the tube into the tubesheet is an interference fit between the tube and the tubesheet. Tube rupture can not occur because the contact between the tube and tubesheet does not permit sufficient movement of tube material. In a similar manner, the tubesheet does not permit sufficient movement of tube material to permit buckling collapse of the tube during postulated LOCA loadings.

Additionally, through analysis and testing, Westinghouse has demonstrated that the roll expansion above the F* distance is sufficient to preclude pullout of the tube from the tubesheet. Even with the conservative assumption that a tube could completely sever circumferentially below the F* distance, test results demonstrate that pullout of the tube is precluded under normal and postulated accident condition loadings. This assumption is conservative, since the primary water stress corrosion cracking that has been observed in operating units has been typified as short and axially oriented. A conservative allowance is added for eddy current elevation location uncertainty to determine the operational value of F*.

Relative to expected leakage, the length of roll expansion above F* is sufficient to preclude significant leakage from tube degradation located below the F* distance. The existing Technical Specification leakage rate requirements and accident analysis assumptions remain unchanged in the unlikely event significant leakage from this region does occur. As noted above, tube rupture and pullout is not expected for tubes using the alternate plugging criteria. Any leakage out of the tube from within the tubesheet at any elevation in the tubesheet is fully bounded by the existing steam generator tube rupture analysis included in the Farley Nuclear Plant Final Safety Analysis Report. The proposed alternate plugging criteria do not adversely impact any other previously evaluated design basis accident.

(2) The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of the proposed alternate tubesheet plugging criteria does not introduce any significant changes to the plant design basis. Use of the criteria does not provide a mechanism to result in an accident out side of the region of the tubesheet expansion. Any hypothetical accident as a result of any tube degradation in the expanded portion of the tube would be bounded by the existing tube rupture accident, accident analysis.

(3) The proposed license amendment does not involve a significant reduction in a margin of safety.

The use of the alternate tubesheet plugging criteria (F*) has been demonstrated to maintain the integrity of the tube bundle commensurate with the requirements of Reg Guide 1.121 for indications in the free span of tubes and the primary to secondary pressure boundary under normal and postulated accident conditions. Acceptable tube degradation is any degradation in the tubesheet more than the F* distance below the bottom of the roll transition. The safety factors used in the determination of the F* distance and the strength of degraded tubes are consistent with the safety factors in the ASME Boiler and Pressure Vessel Code used in steam generator design. The F* distance has been verified by testing to be greater than the length of roll expansion required to preclude significant leakage during normal and postulated accident conditions. The allowance used for eddy current evaluation location measurement uncertainty has been supported by previous experience and laboratory testing.

For axial or nearly axial indications in the tubesheet region, the tube end remains structurally intact further decreasing any potential for tube pullout. For tubes with axial or nearly axial cracks, the strength of the tube relative to an axial load would not be reduced below the strength required to resist potential axial loads. In this case, leakage is the dominant consideration to determine the necessity of tube plugging or repairing. Again, based on testing, using the alternate plugging criteria would not be expected to result in significant leakage from through wall cracks located below the F* distance.

Implementation of the alternate tubesheet plugging criterion will decrease the number of tubes which must be taken out of service with tube plugs or repaired with sleeves. Both plugs and sleeves reduce the reactor coolent system flow margin, thus implementation of the alternate plugging criteria will maintain the margin of flow that would otherwise be reduced in the event of increased plugging or sleeving.

Based on the above, the licensee concludes that the proposed change does not result in a significant reduction in a loss of margin with respect to plant safety as defined in the Final Safety Analysis Report or the bases of the plant technical specifications.

The staff has reviewed the licensee's analysis and agrees with it. Therefore, we conclude that the amendment satisfies the three criteria listed in 10 CFR 50.92. Based on that conclusion the staff proposes to make no significant hazards consideration determination.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303

Attorney for licensee: Ernest L. Blake, Esquire, 2300 N Street, NW., Washington, DC 20003

NRC Project Director: Elinor G. Adensam

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama

Date of amendments request: December 19, 1986, supplemented May 4, 1987.

Description of amendments request: The proposed amendments would revise the Technical Specifications (TS) 3/4.4.6

to allow an approved steam generator (SG) tube sleeving technique in lieu of plugging defective tubes. The currently approved TS requires plugging any SG tube found to have 40 percent or greater through-wall indications. Plugging tubes reduces reactor coolant flow and is less desirable than a repair technique that does not plug or remove the SG tube from service.

Basis for proposed no significant hazards consideration determination: Some SG tubes have been found to have a varying amount of wall degradation after only a few years service. If the degradation is extensive, the normal practice of plugging defective tubes may reduce the effectiveness of the steam generators and eventually reduce the performance of the nuclear steam supply system. An alternative to tube plugging is tube sleeving. A sleeve is installed as a new pressure boundary inside the original tube to bridge the degraded area, thus permitting the tube to remain in service.

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 in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

The licensee has provided a detailed analysis per 10 CFR 50.92 showing that their proposed action does not involve a significant hazards consideration. We agree with the licensees conclusion.

In addition, we have recognized that the current Technical Specifications do not allow repair of steam generator tubes to restore their integrity. However, steam generator technology is expanding to include repair methods such as sleeving, which restores the tube to "like new" service conditions. The proposed Technical Specification change would permit the licensee to utilize a proven repair method (leak tight sleeves) to restore defective steam generator tubes.

The Commission has provided certain examples (51 FR 7751, March 6, 1986) 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 changes 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 the tubes will be restored to "like new" condition by a proven repair method, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the plant design is not being changed. Also, it will not (3) involve a significant reduction in a margin of safety because Technical Specification surveillance requirements and actions regarding degraded tubes are not being changed. Also, the coolant flow will not be reduced as much as the existing tube plugging Technical Specifications currently authorize. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303

Attorney for licensee: Ernest L. Blake, Jr., Esquire, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Elinor G. Adensam

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units Nos. 1 and 2, Houston County, Alabama

Date of amendments request: May 4, 1987

Description of amendments request: The proposed amendments would revise the Technical Specifications (TS) 3.6.1.7, Limiting Condition for Operation, associated Action, and Surveillence Requirements for the Containment Ventilation System. Also, the TS and the Bases section of the TS for Containment Ventilation would be changed to be consistent with guidance provided by NRC staff to the licensee in a letter dated June 19, 1986.

Basis for proposed no significant hazards consideration determination: In an effort to resolve and close out Multiplant Action B-24 and Farley, Unit 2, License Condition 2.C.(17) the NRC staff proposed, and the licensee accepted, certain additional test requirements. The NRC staff basis is to detect any major degradation of the resilient seals in the 8-inch and 48-inch containment purge supply and exhaust isolation valve penetrations. The licensee maintains the 48-inch valves de-activated and secured in a closed position. The 8-inch valves are used to ventilate containment for safety-related reasons.

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, in accordance with the proposed amendment, would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis per 10 CFR 50.92 and states that their proposed action does not involve a significant hazards consideration:

(1) The proposed changes will not increase the probability or consequences of an accident previously evaluated, because the proposed change only adds a surveillance requirement to ensure valve seal integrity where one did not previously exist. The containment vent and purge isolation valves are designed to automatically close and provide containment isolation within the time previously analyzed in the accident analyses. This proposed change does not affect the valve closure time, but provides added assurance of valve operability upon its closure. Therefore, the probability or consequences of an accident previously evaluated will not be increased.

(2) The proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated, because containment isolation has been considered in previously evaluated accidents. The additional surveillance requirements do not change the operation of the valves, but ensure that the containment isolation capabilities are maintained. Thus, these proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed changes will not involve a reduction in a margin of safety, because the revised Technical Specifications continue to assure that the 10 CFR Part 50, Appendix J, total containment leakage criteria of 0.60 L_a for Type B and C tests is met. Therefore, these proposed changes will not involve a reduction in a margin of safety.

We have reviewed the licensee's analysis and have agreed with it. Additionally, these new testing requirements should assure added safety margins not now existing. Accordingly, the Commission proposes to determine that this change does not involve significant hazards.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303

Attorney for licensee: Ernest L. Blake, Esquire, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Elinor G. Adensam

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: December 23, 1985, as revised September 15, 1986 and February 19, 1987

Description of amendment request: By letter dated December 23, 1985, the licensee proposed an amendment to change the Technical Specifications relative to the licensee's Nuclear Safety Review and Audit Committee (NSRAC). The proposed amendment was previously noticed on February 12, 1986 (51 FR 5271). The original request was revised September 15, 1986 by substituting the title "Chief Operating Officer" for "Senior Vice-President, Nuclear." This change was made to recognize that the position of Senior Vice-President, Nuclear had been eliminated and its authority and responsibilities transferred to a new position of higher authority, the Chief Operating Officer. The revised request was noticed on October 8, 1986 (51 FR 36083).

By letter dated February 19, 1987, the licensee again revised the proposed amendment to recognize the utility's decision to reinstate the position of Senior Vice-President, Nuclear. The position will report directly to the President and Chief Executive Officer of Boston Edison Company.

Basis for proposed no significant hazards consideration determination: This additional change to the Technical Specifications is administrative and does not physically affect plant related systems. Therefore, this change 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. Based on this finding, the staff has made an initial determination that the proposed amendment does not involve significant hazards considerations.

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: V. Nerses

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: February 18, 1987

Description of amendment request: The Amendment corrects addressees for reports to NRC to comply with the revision to 10 CFR 50.4.

Basis for proposed no significant hazards consideration determination: This additional change to the Technical Specifications is administrative and does not physically affect plant related systems. Therefore, this change 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. Based on this finding, the staff has made an initial determination that the proposed amendment does not involve 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: V. Nerses, Acting Director

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: May 29, 1987.

Description of amendment request: The purpose of the amendment is to change the Pilgrim Technical Specifications regarding the Standing Liquid Control System (SLCS) in response to the Anticipated Transient Without Scram (ATWS) Rule, 10 CFR 50.62(c)(4).

The proposed changes to the Pilgrim Nuclear Power Station Technical Specifications include surveillance requirements in Sections 4.4.A and 4.4.C, sodium pentaborate solution chemical characteristics in Section 3.4.C, deletion of Figure 3.4.2, changes to the bases, a change to Table 6.9.1, and changes to Figure 3.4.1. Several minor administrative changes resulting from page realignment and typographical corrections are also included. These changes are proposed to reflect the following SLCS modifications which are being made to comply with the ATWS Rule, 10 CFR 50.62(c):

(1) The sodium pentaborate solution in the SLCS will be replaced with enriched boron solution which will have the following characteristics:

(a) A minimum solution concentration of 8.42%, and

(b) A boron enrichment of the sodium pentaborate decahydrate of over 54.5 B^{10} isotope atom percent.

(2) The SLCS surveillance testing will be changed to include an analysis to ensure that the isotopic concentration of the enriched boron solution meets or exceeds the above characteristics.

In addition, it is proposed that item (b) of Technical Specification Table 6.9.1 be deleted. This specification requires submittal of a report evaluating the ISI Program five years after commencement of commercial operation. This report has already been submitted ("Five Year Evaluation of ISI Program", BECo letter 78-8, dated 1/17/78). Therefore, the specification can be deleted with no safety impact to the plant.

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 of consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards considerations using the Commission's standards. The Commission's staff agrees with the licensee's analysis which is described in the following paragraphs.

Operation of the Pilgrim Station with the proposed amendment will not involve a significant increase in the probability of consequences of an accident previously evaluated, in that the addition of enriched boron will provide a shutdown margin equivalent to the previously calculated shutdown reactivity control capability.

Operation of the 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 in that the proposed changes

involve a system whose only function is to provide a backup shutdown capability. The proposed changes do not affect a system or component which could initiate an accident. There are no other systems or subsystems that interact with the SLCS which could initiate an accident.

Operation of the Pilgrim Station in accordance with the proposed amendment will not involve a significant reduction in the margin of safety in that the proposed changes in the SLCS decrease the required sodium pentaborate concentration while maintaining an equivalent overall shutdown reactivity capability. The total B^{10} isotope injection capability will be significantly higher than required for the original design basis, and reactor shutdown will be achieved at a much faster rate. The proposed changes increase the total B^{10} isotope injection into the reactor pressure vessel, thereby increasing the shutdown margin for Anticipated Transient Without Scram events.

The Commission has provided guidance for the application of criteria in 10 CFR 50.92 including examples of amendments that are considered not likely to involve a significant hazards consideration (51 FR 7751). One such example is (i), a purely administrative change to technical specifications. The proposed modification to Technical Specification Table 6.9.1 does not change the intent of the Technical Specification requirements and is similar to example (i).

On the basis of the above consideration, the staff proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room location: 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: V. Nerses, Acting Director.

Carolina Power & Light Company, Dockets Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: January 28, 1987

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) for Brunswick Steam Electric Plant, Units 1 and 2 by revising the limiting conditions for operation and surveillance requirements for the reactor coolant system recirculation loops in Section 3/4.4.1.

Currently, TS Section 3.4.1 requires that both reactor coolant recirculation loops be in operation when the reactor is in Operational Conditions 1 and 2. When one or both loops are not in operation, both loops must be returned to operation within 12 hours or the plant must be placed in a hot shutdown condition within the next 12 hours. The amendment proposed by the licensee's January 28, 1987 letter would add further restrictions, relating to core flow and thermal power, to the definition of recirculation system operability. Consequently, the licensee has proposed to incorporate an additional action step prescribing the action the operators should take if core flow and power do not meet the more restrictive definition of operability. The new action step would require the operators to either reduce thermal power, increase core flow, or monitor average power range monitor (APRM) and local power range monitor (LPRM) neutron flux noise levels. Also, if one or both of the recirculation loops are not in operation, the proposed amendment would require the operators to immediately reduce thermal power. This is an additional requirement over and above the requirement to restore both loops to operation within 12 hours or be in hot shutdown within the next 12 hours. As a result of the proposed amendment, a more restrictive definition of operability would be used; and additional action steps would be imposed to maintain the reactor in a safe operating configuration.

The proposed amendment would also change the surveillance requirements in Section 4.4.1 to require that baseline APRM and LPRM neutron flux noise levels be established after each refueling outage. This is an additional surveillance requirement necessitated by the changes proposed for Section 3.4.1.

The above proposed changes are based, in part, on recommendations of the General Electric Company Service Information Letter 380 (SIL 380), Revision 1, issued February 10, 1984. The NRC endorsed the General Electric Company's recommendations in the Safety Evaluation for Amendment 8 to GESTAR II, dated April 24, 1985.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples (51 FR 7751, March 6, 1986) of license changes involving no significant hazards considerations. The staff has reviewed the proposed change and concludes that it falls within the envelope of example (ii) in that the change would constitute an additional limitation, restriction or control not included in the current Technical Specifications. As described above, the amendment proposed by the licensee would incorporate a more restrictive definition of operability for the recirculation system, additional restrictions on operation and an additional surveillance requirement.

Based on the above, the staff proposes to find that the requested license amendment involves no significant hazard considerations.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: Thomas A. Baxter, Esquire; Shaw, Pittman, Potts and Trowbridge; 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Elinor G. Adensam

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: March 24, 1987.

Description of amendment request: The proposed amendment would revise the Technical Specifications to reduce the minimum required pumping capability of the auxiliary feedwater pumps from 400 gpm per pump to 300 gpm per pump. Consolidated Edison has indicated that the purpose of the proposed change is to increase operational flexibility.

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 (March 6, 1986 51 FR 7751) of amendments that are not likely to involve a significant hazards consideration. One of the examples of actions not likely to involve a significant hazards consideration relates to a change which either may result in some increase to the probability or consequences of a previously analyzed accident or a reduction in someway of 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 (Example vi). The amendment request indicates that the FSAR Loss of Normal Feedwater Transient provides the basis for determining the minimum auxiliary feedwater flow requirement. The safety

function of the auxiliary feedwater pumps is to maintain a water inventory in the steam generators to remove core decay heat energy from the reactor coolant system in the event that the main feedwater system is inoperable. The current design calls for initial operation of the system at 300 gpm to protect against water hammer events, but subsequent operation with a minimum flow of 400 gpm for other events such as a Loss of Normal Feedwater transient. This increase in flow is accomplished by manual action. The proposed change presents a reanalysis of the Loss of Normal Feedwater Transient with an auxiliary feedwater flow of 300 gpm. The licensee's analysis concludes that with the revised auxiliary feedwater flow, sufficient feedwater is available to dissipate decay heat without water relief from the primary system relief or safety valves and that the primary system variables never approach a departure from nucleate boiling condition. This is consistent with the NRC Standard Review Plan Section 15.2.7 which states that the basic objective in the review of the Loss of Normal Feedwater Event is to confirm that one of the following criteria are met:

(a) The consequence of the transients are less severe than the consequences of another transient that results in a decrease of heat removal by the secondary system, and has the same anticipated frequency classification.

(b) The plant responds to the loss of feedwater transient in such a way that the criteria regarding fuel damage and system pressure are met.

Based on the above, the staff proposes to determine that the amendment does not involve a signigicant hazards consideration. Local Public Document Room Location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003

NRC Project Director: Robert A. Capra, Acting Director

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: March 17, 1987

Description of amendment request: The licensee has planned a plant improvement modification which will enhance the station breathing air system by adding new containment isolation valves on the station air header to containment. The new containment isolation valves will have valve tag numbers different from the valve tag numbers of the presently installed containment isolation valves. Therefore, the licensee proposes to revise Technical Specification (TS) Table 3.6-1 entitled "Containment Leakage Paths" and TS Table 3.6-2 entitled "Containment Isolation Valves" to reflect the new valve tag numbers.

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.

The proposed amendment to revise valve tag numbers identified in the Technical Specifications is purely administrative in nature.

The addition of the new containment isolation valves will not increase accident probability or consequences because the new valves will be installed in accordance with the containment isolation criteria specified in the St. Lucie Unit 1 FSAR, and the new valves are of similar design or better than the valves presently installed. Also, the station air system is not considered in any accident analysis nor does it affect any other safety-related equipment.

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 evalu1ated.

The proposed amendment is purely administrative in nature, and the plant modification does not decrease the design margins of the service air system, change operating conditions or functions or affect any other safety-related equipment.

Regarding the third standard, the licensee states that:

Use of the modified specification would not involve a significant reduction in a margin of safety.

The proposed amendment is purely administrative in nature. The new valves will be installed in accordance with the containment isolation criteria specified in the St. Lucie Unit 1 FSAR, and the new valves are of similar design or better than the valves presently installed. The service air system is not considered in any accident analysis.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. The tag number change results from a change in valves to improve the station breathing air system and is not "purely administrative." Nevertheless the staff agrees that the proposed amendment satisfies the standards of 50.92(c) since it appears that the standards have been met because (1) the new valves will be installed in accordance with the containment isolation criteria specified in the St. Lucie Unit 1 FSAR, (2) the new valves are of similar design or better than the valves presently installed, (3) the station air system is not a safety-related system, and (4) revising valve tag numbers in the TS merely documents in the TS the valve replacements.

Based upon the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Lester S. Rubenstein

General Electric Company, Docket No. 50-70, General Electric Test Reactor

Date of amendment request: April 2, 1987

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to authorize the deletion of the cooling tower from the definition of the reactor facility.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The General Electric Test Reactor (GETR) license was amended on February 5, 1986 to renew the license

and authorize possession, but not operation, of the nuclear test reactor located at the Vallecitos Nuclear Center (VNC) Alameda County, California, until October 1, 1992. The GETR has not operated since October 1977. All GETR fuel, fueled experiments and targets containing SNM have been removed from the reactor facility and shipped from the VNC.

The current TS include the cooling tower in the definition of the reactor facility. The licensee is planning to remove the cooling tower from the facility and, since the cooling tower is in the TS, the licensee has requested that the cooling tower be deleted from the TS. Removal of the cooling tower from the TS or the facility has no effect on safety since this is a possession-only license.

The staff therefore finds that the proposed amendment:

(1) Does not involve a significant increase in the probability or consequences of previously evaluated accidents because the facility cannot operate as a test reactor under existing license conditions and the cooling tower cannot be used under the circumstances.

(2) Does not create a possibility of a new or different kind of accident from any accident previously evaluated because the facility cannot operate as a test reactor under existing license conditions and the cooling tower cannot be used under these circumstances.

(3) Does not involve a significant reduction in a margin of safety because the facility cannot operate as a test reactor under existing license conditions and the cooling tower cannot be used under these circumstances.

Based on the above considerations the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: N/A

Attorney for licensee: Harry C. Burgess, Esq., General Electric Company, Nuclear Energy Business Operations, 175 Curtner Avenue, Mail Code 822, San Jose, California 95125.

NRC Project Director: Herbert N. Berkow

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 2, Appling County, Georgia

Date of amendment request: May 8, 1987

Description of amendment request: The amendment would modify the Technical Specifications (TS) to delete from Section 4.3.7.2 a requirement to cycle the extraction steem non-return valves through at least one complete test cycle of partial closure at least once per 7 days. The extraction steam non-return (check) valves are designed to preclude the possibility of steam in the feedwater system back-feeding the turbine and contributing to a turbine overspeed condition. The valves also protect against a water leg in the extraction steam lines which could lead to excess moisture in the turbine.

Basis for proposed no significant hazards consideration determination: The Commission has provided criteria for determining whether a significant hazards consideration exists (10 CFR Part 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.

Protection from turbine overspeed is a nuclear safety concern since excessive overspeed could result in the generation of missiles from turbine components with the potential for damaging safety-related components, equipment and/or structures. To protect the plant against possible turbine overspeed, both a normal overspeed protection system and an emergency overspeed protection system are provided. Either system is capable of preventing excessive turbine overspeed without regard to the operability of the extraction steam non-return valves. The extraction steam non-return valves are classified as "non-critical" since even if these valves are non-operable, there is not enough energy in the extraction steam lines to challenge the overspeed protection systems.

The licensee's submittal of May 8, 1987, stated that deletion of the TS surveillance requirement regarding the extraction steam non-return valves is acceptable because:

1. The probability of the occurrence and the consequences of an accident or malfunction of equipment important to safety are not increased above those previously evaluated because failure of the extraction steam check valves will not result in a turbine overspeed and will not significantly increase the severity of a turbine overspeed, should one occur. The nuclear safety implications of a postulated turbine-generated missile have been analyzed by General Electric and have been found acceptable. The operation of the extraction steam check valves is not important with regard to this nuclear safety issue; i.e., they are non-critical valves.

2. The possibility of a different kind of accident from any analyzed previously is not created by this change because the extraction check valves do not affect the ability of the turbine overspeed protection systems to perform their functions with regard to the nuclear safety issue of turbine-generated missiles.

3. Margins of safety are not significantly reduced by this change since the function of the turbine overspeed protection systems relative to nuclear safety is still provided. Surveillance requirements will be per the manufacturer's recommendations.

The staff has considered the proposed amendment and agrees with the licensee's evaluation with respect to the three criteria.

On this basis, the Commission has determined that the requested amendment meets the three criteria and, therefore, has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 M Street, NW., Washington, DC 20037

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: March 26, 1987, as supplemented by letter dated May 8, 1987

Description of amendment request: The proposed amendment revises Technical Specification 3/4.4.3, "Reactor Coolant System-Pressurizer" by (1) changing the Limiting Condition for Operation (LCO) 3.4.3 "Pressurizer" to LCO 3.4.3.1, (2) revising the numbering of the associated surveillance requirements to be consistent with the proposed change and (3) adding LCO 3.4.3.2, "Auxiliary Spray", along with its supporting Action statements and surveillance requirements. The proposed changes will also revise Bases Section 3/4.4.3 to describe some of the technical reasons for adding this LCO. The reason for these changes is to impose a new requirement to maintain at least one

auxiliary pressurizer spray valve operable when the reactor is in Modes 1, 2 or 3.

The proposed changes define the operability requirements for the existing Auxiliary Pressurizer Spray (APS) system and adds these operability requirements to the Technical Specifications. The APS is used to depressurize the Reactor Coolant System (RCS) by injecting water, via the charging pumps, into the pressurizer steam space. In order to initiate auxiliaray spray flow, the operator closes the charging loop isolation valves and opens the auxiliary spray valves. This redirects the charging flow that would normally enter the RCS via loops 1A and/or 2A into the pressurizer steam space; and, by adjusting the number of charging pumps that are operating, the operator can control the rate of RCS depressurization. Even if one of the charging loop isolation valves failed to close on demand, previous tests of the APS system have shown that a more than adequate depressurization rate can be maintained.

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; (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 numbering changes to the current Technical Specification 3/4.4.3 are strictly administrative and will have no impact on any of the accident analyses presented in Chapters 6 and 15 of the FSAR. The addition of LCO 3.4.3.2 places an additional restriction on the operating license and will ensure that the auxiliary spray system is available whenever the plant is in operational Modes 1, 2 or 3. Since the proposed changes result in either administrative changes or additional restrictions and has no impact on the accident analyses, it will not result in a significant increase in the probability or consequences of any accident previously evaluated.

(2) The auxiliary spray system provides an alternate means of depressurizing the primary system when the main pressurizer sprays are not available (e.g., during natural circulation conditions). The proposed changes define the operability requirements for an existing plant system and adds these operability requirements to the Technical Specifications. There will be no physical change to plant systems, structures or components. The only change to plant procedures will be to check the operability of the auxiliary spray system when performing routine surveillance testing. Since the proposed changes will not affect the ability of the auxiliary spray system to perform its design function and all other changes are strictly administrative, they will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The intent of the proposed changes is to ensure that the plant operators have a means of depressurizing the primaray system when the main pressurizer sprays are not available. They impose new restrictions on reactor operation (i.e., Action statements) that must be followed when or if the system is inoperable. Since the proposed changes are either administrative or impose restrictions that are not now part of the operating license, the overall impact of these changes should be an increase in the margin of safety.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751) of amendments that are considered not likely to involve significant hazards consideration. Example (i) relates to a purely administrative change to technical specifications (i.e., a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature). Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications (i.e., a more stringent surveillance requirement).

In this case the proposed changes to Technical Specification 3/4.4.3 are similar to Example (i) in that change is strictly administrative to achieve consistency in the technical specification numbering. The proposed addition of LCO 3.4.3.2 is similar to Example (ii) in that it constitutes an additional restriction that is not currently included in the technical specifications.

The staff reviewed the licensee's no significant hazards consideration analysis. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: 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 Street, NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: March 26, 1987, as supplemented by letter dated May 15, 1987.

Description of amendment request: The proposed change will revise the action statements and surveillance requirements of Technical Specification 3.8.1.1, "Electrical Power Systems, A.C. Sources-Operating." The reason for this change is to implement a more performance-based technical specification that will improve the overall reliability and availability of the emergency diesel generators of Waterford 3. The proposed change consists of the following:

(1) Action statement "a" currently specifies the action to be taken if either an offsite A.C. power source or an Emergency Diesel Generator (EDG) becomes inoperable. The proposed change will place the offsite circuit and the diesel generator into separate action statements; that is, the proposed Action statement "a" would specify only those actions that are required when one offsite A.C. circuit becomes inoperable while the proposed Action statement "b" would specify only those actions that are required when one EDG becomes inoperable. This will provide the operators with specific instructions for each case, thereby reducing the potential for operator error. This change is administrative and does not affect the manner in which the plant is operated.

(2) When one required offsite A.C. circuit is inoperable, Action statement "a" currently requires all remaining A.C. power sources (including both EDGs) to be demonstrated operable within 1 hour and every 8 hours thereafter. The proposed change would not affect the requirement to verify the operability of the remaining offsite A.C. circuit but would change the requirement for testing the diesel generators. The diesel generator testing requirements would be changed from "within 1 hour and at least every 8 hours thereafter" to "within 24 hours (unless it is already operating)." The proposed change would reduce the number of diesel generator starts and is consistent with NRC

Generic Letter 84-15, "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability," and other EDG technical specification changes previously approved on other plants.

(3) When one required diesel generator is inoperable, Action statement "a" currently requires all remaining A.C. power sources to be demonstrated operable within 1 hour and at least every 8 hours thereafter. The proposed change would not affect the requirement to verify the operability of the offsite A.C. circuits but would re-letter this action statement as Action statement "b" and modify the diesel generator testing requirements. The new Action statement "b" would require testing of the remaining operable EDG within 24 hours (same as (2) above) but only "if the diesel generator became inoperable due to any cause other than preplanned preventive maintenance or testing." This reduced testing requirement is consistent with other EDG technical specification changes previously approved on other plants.

(4) With one offsite A.C. circuit and one diesel generator inoperable, Action statement "b" currently requires the remaining A.C. power sources to be demonstrated operable within 1 hour and at least every 8 hours thereafter. The proposed change would retain the same require ments for verifying the operability of the remaining offsite A.C. circuit, but would not require an operability test on the remaining operable EDG if it was already running or if the inoperable EDG became inoperable due to preplanned preventive maintenance or testing. The requirement to restore at least one of the inoperable power sources to operable status within 12 hours will be retained; however, the require ment to restore both offsite A.C. circuits and both EDGs to operable status will be reworded to clarify what credit may be taken and what time requirements are involved when one of the inoperable A.C. power sources has been returned to operable status. The proposed changes are consistent with NRC Generic Letter 84-15 and should assist the operators in properly interpreting the action statements. This action statement has been re-lettered as Action statement "c."

(5) When one diesel generator is inoperable, Action statement "c" currently requires action to be taken which is in addition to Action statement "a or b". The proposed change would re-letter this action statement (to Action statement "d") and change the reference from Action statement "a or b" to Action statement "b or c". This is an administrative change to maintain consistency throughout the technical specifications.

(6) When both of the required offsite A.C. circuits are inoperable, Action statement "d" currently requires both diesel generators to be demonstrated operable within 1 hour and at least once per 8 hours thereafter (unless they are already operating). The proposed change would delete the 1-hour requirement and specify that both EDGs must be demonstrated operable within 8 hours. The requirement to restore at least 1 offsite A.C. circuit to operable status within 24 hours will be retained; however, the requirement to restore both offsite A.C. circuits to operable status will be reworded to clarify what credit may be taken and what time requirements are involved when one of the inoperable offsite A.C. circuits has been returned to operable status. The proposed changes are consistent with NRC Generic Letter 84-15 and should assist the operator in properly interpreting the action statements. This action statement has been re-lettered as Action statement "e."

(7) When both of the required diesel generators are inoperable, Action statement "e" currently requires both offsite A.C. circuits to be demonstrated operable within 1 hour and at least once per 8 hours thereafter. In addition, it requires that one EDG be restored to operable status within 2 hours or the reactor must be shutdown. No change has been proposed to these requirements. The proposed change to this action statement is to reword the requirement to restore both EDGs to operable status in order to clarify the time requirements that are involved when an inoperable EDG is returned to operable status. This is an administrative change to assist the operators in interpreting the action statements. This action statement has been re-lettered as Action statement "f."

(8) Surveillance Requirement 4.8.1.1.2a.5 of the technical specifications currently requires that, on a staggered test basis, each diesel generator by synchronized and loaded to greater than or equal to 4400 kW in less than or equal to 176 seconds and operate at this load for at least an additional 60 minutes. The proposed change would replace "greater than or equal to 4400 kW" with "an indicated 4200-4400 kW." The reason for this change is to allow routine monthly testing below the continuous diesel generator rating of 4400 kW. The intent of monthly testing is not to show that the EDG can exceed its continuous duty rating on a frequent basis but, rather, to exercise the EDG, confirm its operability and detect any performance degradation prior to a failure. The ability of the EDG to meet the design basis accident loads (4619 kW) and the maximum continuous design load (4383 kW) is currently verified every 18 months by performing surveillance requirement 4.8.1.1.2d.6 of the technical specifications. Since the exact value of generator load is not critical and it has been shown that frequent overloading is a potential cause of EDG failures, the reduction in EDG loading for routine tests should result in an overall increase in the reliability and availability of the diesel generators.

(9) Surveillance requirement 4.8.1.1.2c.3 of the technical specifications currently requires that, in order to maintain an operable EDG, the diesel generator fuel oil supply must be maintained with properties consistent with Table 1 of ASTM-D975-1977 and Regulatory Guide 1.137 (Position 2a). The proposed change to this surveillance requirement would add a statement that would allow the EDG to retain operable status even when these properties are outside of the prescribed limits as long as corrective action is initiated within 72 hours to return the fuel oil supply to within acceptable limits. The two parameters called out in Regulatory Guide 1.137 (Position 2a) as being critical to EDG operability (i.e., viscosity and water/sediment) are specifically covered in surveillance requirements 4.8.1.1.2c.1 and 4.8.1.1.2c.2. These parameters must be within acceptable limits or the EDG is declared inoperable.

(10) Surveillance requirement 4.8.1.1.2d.6 of the technical specifications currently requires, in part, that every 18 months each EDG be run continuously for 24 hours; the first 2 hours at a load greater than or equal to 4840 kW and the last 22 hours at a load greater than or equal to 4400 kW. The basis for this requirement is to ensure that each EDG can maintain the peak accident design load (4619 kW) if required and the maximum continuous design load (4383 kW) if required. The proposed change would revise the maximum EDG loading for the first 2 hours "greater than or equal to 4840 kW" to "between 4700 and 4900 kW." The licensee has stated that this will verify that the EDG is capable of maintaining the peak accident design load without overloading it. The requirement for maintaining greater than or equal to 4400 kW for the remaining 22 hours would be unchanged. The proposed change would also correct a typographical error in the last line of this surveillance requirement. This line should read, "Within 5 minutes after

completing this 24-hour test, perform Surveillance Requirement 4.8.1.1.2d.3b" (vice 4.8.1.1.2d.4b).

(11) Table 4.8-1, which specifies the diesel generator test schedule, is based on Regulatory Guide 1.108 "Periodic Testing of Diesel Generators Units Used as Onsite Electrical Power Systems at Nuclear Power Plants," and currently requires a test frequency varying from once every three days to once every 31 days, depending on the number of failures in the last 100 valid tests. The proposed change would add a 20-test criterion for determining test frequency, change the 100-test criterion to reflect a reduced testing frequency, and change the test criteria from a "per nuclear unit" basis to a "per diesel generator" basis. In addition, a note would be added to this table which would provide a direct incentive for major corrective action when a diesel generator has been experiencing repeated failures. That is, once the EDG has been completelay overhauled to "like-new" conditions and its reliability demonstrated, the diesel generator failure count would be reduced to zero and the EDG would re-enter the test schedule at the monthly test frequency. In order to demonstrate EDG reliability, the diesel generator would be successfully started 14 consecutive times. These changes are consistent with NRC Generic Letter 84-15 and other EDG technical specification changes previously approved on other plants.

(12) A new Table 4.8-2 has been added to require, consistent with Generic Letter 84-15, additional actions should the number of diesel generator failures exceed 2 in the last 20 tests or 5 in the last 100. These new actions include implementation of a reliability improvement program and; if the failures exceed 4 in the last 20 tests or 10 in the last 100, would require performance of a requalification test program. *Basis for proposed No Significant Hazards Considerations 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; (2) Create the possibility of 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) Emergency onsite power sources (i.e., diesel generators) are credited in all FSAR Chapter 15 accident analyses that assume a loss of offsite power. The analyses include virtually every type of accident; from reactivity initiated accidents (e.g., Control Element Assembly (CEA) Drop and CEA Ejection) to primary and secondary system pipe breaks (e.g., Steam Line Break and Loss of Coolant Accident). When evaluating these accidents, it is typical to assume that one emergency diesel generator (EDG) fails to start and/or load, hence each EDG must be capable of powering the Engineered Safety Features (ESF) that are necessary to mitigate the consequences of the accident. In the case of Waterford 3, the licensee has calculated that the initial peak accident load (i.e., the power that must be available for the first two hours of the design basis accident) is approximately 4619 kW while the long-term accident loads (i.e., the power that must be available for several weeks post-accident) is approximately 4383 kW. The Waterford 3 EDGs therefore, have design ratings of 4840 and 4400 kW for the peak and long-term accident loads, respectively. In order to ensure that these EDGs can indeed perform as they were designed, it is important that they be tested on a routine basis; however, when the testing becomes excessive (as much as 3 times a day for some ACTION statements), the tests themselves can lead to EDG degradation and subsequently, reduce their reliability and availability. The proposed changes to this technical specification provide for an overall reduction in diesel generator testing that is consistent with the guidelines provided by NRC Generic Letter 84-15 and other EDG technical specification changes that have been previously approved by the NRC. Since the proposed changes will improve the overall reliability and availability of the diesel generators and each EDG (by itself) can satisfy the power requirements for the peak and long-term accident loads, the proposed changes will not significantly increase the probability or consequences of any accident previously evaluated.

(2) The emergency diesel generators provide backup electrical power to vital plant systems in the event that primary offsite power is lost. They provide no direct support for plant systems during normal plant operation. The proposed changes, which will implement reduced of excessive testing requirements, are intended to increase the overall reliability of the EDGs thereby increasing their availability. Since the diesel generators will still be capable of performing their design function (with potentially increased availability), 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 this specification is to ensure that there is sufficient power available to supply the safety-related equipment required for safe shutdown of the plant and mitigation and control of accident conditions. The redundancy of the power sources required (2 onsite sources and 2 offsite sources) ensure that, even during an accident with a coincident loss of offsite power and a single failure of one onsite power source, there is still sufficient power to supply all required safety systems. Since the proposed changes have no effect on the Limiting Condition for Operation (LCO), these requirements are unaffected. The action statements to the LCO restrict operation of the plant in a manner commensurate with the level of degradation. For example, when one emergency diesel generator is inoperable, the action statements require verification that all other A.C. power sources are operable and that all required systems, subsystems, trains and components that depend on the remaining EDG are also operable. This provides assurance that a loss of offsite power will not result in a complete loss of safety function of critical systems during the time one EDG is inoperable. The proposed changes to the action statements are either administrative (such as dividing the current Action statement "a" into separate Action statements "a" and "b") or they implement the reduced testing requirements recommended by NRC Generic Letter 84-15. These changes should result in increased reliability and availability of the EDGs. The surveillance requirements are intended to demonstrate the operability of the A.C. sources. No changes are proposed to the surveillance requirements affecting the operability of the offsite A.C. sources. The proposed changes to the EDG surveillance requirements are intended to reduce the frequency and potential for overloading the EDGs in order to reduce the overall wear on the engine. This should result in an increased reliability of the EDGs. Therefore, due to the increased reliability of the EDGs, the proposed changes do not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration analysis. Based on the review and above discussions, the staff proposes to

determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchhill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: February 17, 1984 as revised April 6, 1987

Description of amendment request: The proposed amendment involves upgrading the closed circuit television instrusion detection system.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident pre viously evaluated, or (3) involve a significant reduction in a margin of safety.

A. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated? *Evaluation:*

The accident analyses contained in the Updated Safety Analysis Report (USAR) take no credit for the provisions of the Physical Security Plan or the Safeguards Contingency Plan in preventing or mitigating the consequences of any accident. The Physical Security Plan and Safeguards Contingency Plan provide a basis for assuring that the onsite physical protection system and security organization are sufficient to prevent acts of radiological sabotage from having a significant impact on public health and safety.

1. The purpose of the closed circuit television (CCTV) camera system is to facilitate initial response to penetration of the protected area and assessment of the existence of a threat, by means which limit exposure of responding personnel to a possible attack. The upgraded detection devices, will continue to provide detection of protected area penetration and the ability to observe the activities at the protected area barrier.

2. The CCTV monitors provide remote viewing of activities at the protected area barrier. The alarm viewing monitor automatically focuses on any area in which an intrusion alarm is received. The CCTV monitors provide for adequate general surveillance to detect any unauthorized activities in the isolation zone, as well as continuous viewing of the area where an intrusion alarm is detected. Thus, the CCTV cameras and monitors provide for general surveillance of the protected area perimeter, not continuous monitoring. Continuous monitoring only occurs if a potential instrusion is detected. This continues to provide adequate capability to assess the existence of a threat and to conduct general surveillance of the protected area perimeter.

Therefore, the proposed change does not increase the probability or consequences of any accident.

B. Does the proposed license amendment create the possibility for a new or different kind of accident from any accident previously evaluated? *Evaluation:*

The proposed changes does not affect the physical barriers protecting the plant or the Security Organization effectiveness. The only changes proposed are to the closed circuit television (CCTV) system, which allows the security force to assess the existence of a threat. Changes in the CCTV system will not create any new or different accidents, since the assessment capability will not be diminished so as to reduce the effectiveness of the security organization in responding to a threat.

1. The upgraded CCTV cameras will continue to allow remote viewing of activities at the protected area barrier. This will permit adequate assessment of the existence of a threat, while limiting exposure of responding personnel to possible attack.

2. The CCTV monitors will continue to allow general surveillance and will automatically focus on any area where instrusion is detected.

Therefore, the proposed change does not create the possibility of a new or different kind of accident.

C. Does the proposed amendment involve a significant reduction in a margin of safety?

1. The upgraded closed circuit television (CCTV) camera system will provide equivalent surveillance and threat assessment capability to the system currently in use. In fact, the new cameras will provide a better picture and better viewing capability. The system will continue to meet the requirement to assess the existence of a threat, while limiting exposure of responding personnel to possible attack.

2. The CCTV monitors, along with the alarm viewing mointor, will provide equivalent surveillance and threat assessment capability to that currently in use. The new equipment will actually improve the viewing capability.

Therefore, margins of safety are not reduced.

Since the application for amendment involves proposed changes that are encompassed by the standards which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601

NRC Project Director: Jose A. Calvo

Northeast Nuclear Energy Company, Docket No. 50-423, Millstone Nuclear Power Station Unit 3 London County, Connecticut

Date of amendment request: May 5, 1987

Description of amendment request: The amendment would revise Millstone Unit No. 3 Technical Specification Section 4.8.1.1.2 and 3.3.2 (Table 3.3-5, Item 11.a), to increase the emergency diesel generator (EDG) start-up time from 10 seconds to 11 seconds and to increase the 4KV Bus undervoltage response time from 12 seconds to 13 seconds.

Basis for proposed no significant hazards consideration determination: According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) create the possibility of a new or different kind of accident from any previously evaluated; or

(3) involve a significant reduction in a margin of safety.

The EDG's are currently starting within 9.5 seconds; however, the current acceptance criteria (10 seconds) has been exceeded (10.1 seconds) on two occasions. Relaxing the acceptance criteria will reduce the need for special

reports for minor deviations in response time. The EDG start time is one component of the Engineered Safety Feature Response Times (ESFRT) that have been considered in the FSAR. The ESFRT remain the same therefore the conclusions of the FSAR remain unchanged. A 1 second deviation in EDG response time cannot create a new or different kind of accident because the current safety analysis is based on the ESFRT which remains unchanged.

The licensee has therefore concluded that the three criteria of 10 CFR 50.92(c) are not compromised and the proposed amendment does not involve a significant hazard consideration. The staff has reviewed the licensee's submittal and agrees with its significant hazards determination.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385

Attorney for licensee: Gerald Garfield, Esq., Day, Berry, and Howard, City Place, Hartford, Connecticut 06103-3499

NRC Project Director: John F. Stolz

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of amendment request: April 3, 1987

Description of amendment request: The amendment would revise the Technical Specifications (TSs) to (1) incorporate the operating limits (e.g., core physics, thermal and hydraulic limits) for all fuel types for Cycle 2 operation of Limerick, Unit 1; (2) incorporate a change in slope of the flow biased Average Power Range Monitor (APRM) scram and rod block setpoints; and (3) modify the Bases associated with reloads of new fuel. Limerick, Unit 1 was shut down on May 15, 1987 for the first refueling outage. During the outage, 268 of the 764 fuel assemblies will be replaced with new fuel (about 35%). The reload will use General Electric (GE) manufactured fuel assemblies which were analyzed by GE using methodologies approved by NRC. Enclosed with the licensee's submittal were the reports discussing the reload; the analyses performed to support and justify Cycle 2 operation and extended power-flow operating regions (extended load line limit analysis-ELLLA) and appropriate TS changes to modify operating limits to be consistent with the analyses.

The reload for Cycle 2 is generally a normal reload with no unusual core features or characteristics. TS changes are few and primarily relate to Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) and Linear Heat Generation Rate (LHGR) limits for the new fuel and Minimum Core Power Ratio (MCPR) limits for all of the fuel using Cycle 2 core and transient parameters. The new fuel for Cycle 2 is the GE extended burnup fuel GE8X8EB. This fuel type has been approved by NRC in the Safety Evaluation Report for Amendment 10 to GESTAR II. This fuel has been approved for other recent reloads (e.g., Fitzpatrick, Peach Bottom 2).

Basis for proposed no significant hazards consideration determination: The staff has evaluated the proposed changes to the TSs to incorporate the new operating limits associated with the reload (i.e., MCPR, MAPLHGR, LHGR and rod block monitor setpoints) in accordance with the standards provided in 10 CFR 50.92(c). The staff's evaluation is independent of the more extensive evaluations provided by the licensee. The staff has determined that:

(1) The proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated because these changes are clearly bounded by the analyses provided in the FSAR. All abnormal operational transients analyzed in the FSAR have been examined for effects caused by Reload 2 and the limiting abnormal operational transients have been re-evaluated in detail. The 8X8 fuel assemblies to be installed in the core are not significantly different from the 8X8 fuel assemblies they are replacing. The NRC staff has previously approved the General Electric (GE) fuel assemblies. The NRC staff has also approved the analytical methods which the licensee and GE used to evaluate the effects of the replacement fuel on thermal-hydraulic limits and transients.

(2) The proposed revisions do not create the possibility of a new or different kind of accident from any previously analyzed because operation with Reload 2 merely changes slightly the assumptions (initial conditions or final conditions) utilized in existing analyses and does not create any new accident mode.

(3) The proposed revisions do not involve a significant reduction in a margin of safety. The results of the safety evaluation show that the current Technical Specifications, with the exception of the MCPR, LHGR, and MAPLHGR operating limits, and the Rod Block Monitor (RBM) setpoints, are adequate to preclude the violation of any Safety Limits for Reload 2 operation with a comparable margin of safety. The MCPR, LHGR and MAPLHGR operating limits and the RBM setpoints have been revised to assure the margin of safety is maintained as demonstrated in the "Supplemental Reload Licensing Submittal for Limerick Generating Station, Unit 1, Reload 1" which provides the thermal, hydraulic and accident analyses for the core arrangement.

The staff also evaluated the licensee's evaluation of proposed changes in the TSs to modify the slope of the flow biased APRM scram and rod block setpoints in accordance with the standards provided in 10 CFR 50.92(c) and concluded that:

(1) The proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated because these changes are clearly bounded by the analyses provided in the FSAR. The change in APRM scram and rod block setpoint equations was evaluated using NRC approved procedures and methods. The proposed ELLLA changes are standard changes as described and discussed in the approved GE topical report on this subject and have been approved for a number of BWRs in recent years. All abnormal operational transients analyzed in the FSAR have been examined for effects caused by the slope change and have been found to be bounding.

(2) The proposed revisions do not create the possibility of a new or different kind of accident from any previously analyzed in that operation with the slope change merely changes slightly the assumptions (initial conditions or final condition) utilized in the existing analyses and does not create any new accident mode.

(3) The proposed revisions do not involve a significant reduction in a margin of safety. The results of the safety evaluations discussed in the General Electric Company Document, NEDC-31139, "General Electric Boiling Water Reactor Extended Load line Limit Analysis for Limerick Generating Station, Unit 1, Cycle 1," dated April 1986, provided with the submittal show that the current Technical Specifications are adequate to preclude the violation of any Safety Limits with a comparable margin of safety for operation with the slope change. Furthermore, the safety evaluations discussed in the "Supplemental Reload Licensing Submittal for Limerick Generating Station, Unit 1, Reload 1," confirm that the changes to the Technical Specifications proposed for Cycle 2 operation are adequate to preclude the violation of any Safety Limits for operation with the slope change.

As noted initially, there will also be administrative changes in the bases for several sections of the TSs to incorporate the reload safety limit MCPR and to eliminate redundant information that is subject to periodic revision. These are administrative changes flowing from the changes to Limiting Conditions for Operation (LCOs) and Surveillance Requirements and are covered by the above evaluations.

Based on the above, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, 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: December 17, 1986

Description of amendment request: The amendments would revise a single page of the Technical Specifications (TSs) to reflect the addition of a radwaste treatment subsystem to treat/filter potentially contaminated oily and/or chemical wastes. Section 3.8.B.4 of the present TSs states that

> All liquids shall be processed through either the waste collector filter and demineralizer, the floor drain filter, or the fuel pool filter demineralizer as appropriate prior to their discharge...

The licensee has modified the chemical waste subsystem for laboratory and decontamination fluids and the laundry drain subsystem so that these two subsystems can collect and process chemical and/or oily wastes. If oily wastes were processed in the existing systems, the oil would foul the ion exchange resins and preclude potential reuse of the processed water. Consequently, the chemical and oily wastes have been collected and stored in drums or other containers throughout the plant. The proposed change to the TSs is to add this fourth subsystem to the three subsystems mentioned above. The specific change would require that all liquids with significant activity,

> shall be processed through one of the radwaste subsystems or combinations of these subsystems listed below, prior to release.

The four subsystems listed are the three presently identified in the TSs plus the "Chemical/Oily Waste Cleanup Subsystem." There are also changes proposed to the surveillance requirements in the TSs associated with this plant modification and a few minor editorial and format changes to the same TS section for clarification. Like the present fuel pool filter demineralizer subsystem, the new chemical/oily waste subsystem is considered an alternate treatment subsystem and would not be subject to the quarterly surveillance requirements presently specified for the other two subsystems.

Basis for proposed no significant hazards consideration determination: The licensee evaluated the proposed changes associated with the amendments in accordance with the standards provided in 10 CFR 50.92(c) and determined that:

(1) Operation in accordance with the proposed amendments does not involve a significant increase in the probability or consequences of an accident previously evaluated.

All liquid radwaste controlled effluents to areas at or beyond the site boundary discharge thru a single common pipe (pathway) to the circulating water system. The discharge is continuously monitored for radiation and liquid discharge flow rate. The discharge flow rate is adjusted based on the analysis of the batch, sampled prior to being discharged. The release of the treated chemical/oily waste will also be discharged thru the same common pathway as the existing radwaste effluent after being sampled by the same sample analysis program used for the existing subsystems. Therefore, absent any new pathway or any new type sample analysis program, the inclusion of the chemical/oily waste subsystem in the technical specifications listing as a viable processing system for treatment of radwaste chemical/oily waste streams does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation in accordance with the proposed amendments does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The chemical/oily waste subsystem will utilize the laundry drain tanks, previously evaluated in the Updated Final Safety Analysis Report (UFSAR). The yearly waste volume to be discharged, and its activity concentration, are less than that previously evaluated in the UFSAR for the Laundry Drain Subsystem. The new plant subsystem will improve plant operations and will not adversely affect the other radwaste subsystems; therefore, the addition of the chemcial/oily waste subsystem and incorporation of the chemical/oily waste subsystem into the radwaste specifications will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation in accordance with the proposed amendments does not involve a significant reduction in a margin of safety.

The treated effluent from the chemical/oily waste subsystem will be discharged via the same single common discharge pathway as the effluents from the existing subsystems and will be sampled and analyzed under the same program as the other radwaste subsystems.

The laundry drain equipment and the chemical waste tank will be incorporated into the chemical/oily waste subsystem. The laundry drain equipment and the chemical waste tank to be incorporated, although not included in the existing radwaste specifications, were previously designed and installed under the same standards as the other existing radwaste equipment. After installation of the filters (which may include activated carbon and/or ion exchange resins), the completed treatment system will improve the operations of the radwaste facility, and by consolidation of the chemical/oily radwaste treatment system into one integrated unit, will treat the waste more effectively than the existing subsystems.

Based on the design criteria used, the operational improvements and use of the existing, previously evaluated discharge pathway and monitoring/analysis program, the addition of the chemical/oily waste subsystem into the radwaste specifications does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Furthermore, the NRC staff has completed review of the submittal and has concluded that the design of the new chemical/oily waste subsystem meets all criteria delineated in Section 11.2 of the Standard Review Plan, the addition of this new subsystem will enhance plant safety and the proposed changes to the Technical Specifications are acceptable. Based on the above, the staff proposes to determine that the requested amendments do not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126

Attorney for Licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: May 5, 1987

Description of amendment request: The proposed amendment would modify Technical Specifications 3.3.1, "Reactor Trip System Instrumentation," and 3.3.2, "Engineered Safety Features (ESF) Instrumentation." The proposed request for amendment is made to support the removal and replacement of the existing Reactor Coolant System narrow range Resistance Temperature Detectors (RTDs). Specifically, the following would be changed. Table 3.3.2, "Reactor Trip System Response Times" would be modified to increase the measured response time for the Overtemperature Delta-T Trip from 4.0 seconds to 5.75 seconds. Table 3.3.5, "Engineered Safety Features Response Times," will be modified. All of the response times listed under Initiating Signal Number(5), "Steam Flow in Two Steam Lines-High Coincident with T_{avg}-Low-Low" will be increased 1.75 seconds.

Additional changes have been made to achieve consistency between units. Primarily, a requirement for Auxiliary Feedwater Response Time has been added to Unit 1 to achieve consistency with Unit 2 and the Westinghouse Standard Technical Specifications (WSTS). Item 14-Station Blackout was added to Unit 2 to achieve consistency with Unit 1 and the WSTS. Other typographical errors were corrected on the Unit 1 Technical Specifications, again to be consistent with Unit 2.

Basis for proposed no significant hazards consideration determination: The licensee provided a 10 CFR 50.92 evaluation which concluded that the proposed change does not involve a significant hazards consideration because operation of Salem Generating Station Units 1 and 2 in accordance with this change would not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated. The probability of a previously analyzed accident is discussed first. The proposed change in measured response time will not increase the probability of such an accident because the numerical value of the LCO on Overtemperature Delta-T Trip or steam flow in two steam lines-high coincident with T_{avg}-low-low ESF actuation response times is not a factor in the initiation of a previously evaluated accident. The removal and replacement of the existing RTDs and bypass line elimination will not significantly increase the probability of occurrence of an accident previously evaluated. The events of interest are those initiated by a failure of those components affected by the proposed change. There are four such events: (1) Uncontrolled Withdrawal of a Control Rod at Power, (2) Excessive Load Increase, (3) Accidental Depressurization of the Main Steam System, and (4) Small Break Loss of Coolant Accident (SBLOCA). The Uncontrolled Rod Withdrawal event is an ANS Condition II (moderate frequency) event potentially initiated by a failure of the reactor control system. The Excess Load and Accidental Depressurization of the Main Steam System events are also Condition II events. They are potentially initiated by a failure of the steam dump control system. The input to the reactor control system and steam dump control system from the replacement RTDs will be equivalent to those currently provided by the existing RTDs. The proposed modification will be done in a manner consistent with the plant design bases. As such, there will be no degradation in the performance of or increase of the number of challenges to safety systems assumed to function in the accident analysis. Furthermore, there will be no increase in the probability of failure of or degradation of the performance of the systems designed to reduce the number of challenges to safety systems. Hence, the first three events will remain Condition II events.

The SBLOCA is an ANS Condition III (infrequent) event. It could be initiated by the highly unlikely ejection of a thermowell or the failure of a cap covering one of the existing pump suction leg penetrations. The scoops, cross over leg buttweld caps RVLIS, and thermowells will be analyzed to the ASME Boiler and Pressure Vessel Code, Section III, Class 1 and installed in accordance with the requirements of Section XI of this Code. As such, the RCS pressure boundary will not be degraded. The SBLOCA will thus remain a Condition III event. Additionally, approximately 280 feet of small diameter pipe and the associated valves will be removed from the primary system pressure boundary, eliminating the possibility of a SBLOCA from these locations. Hence, there will be no significant increase in the probability of occurrence of an accident previously evaluated in the SAR.

There will be no increase in the consequences of a previously evaluated accident. In assessing the impact on the consequences of a previously evaluated accident, there are four events of interest: (1) Uncontrolled Boron Dilution During Full Power, (2) Loss of External Load, (3) Uncontrolled Withdrawal of a Control Rod at Power, and (4) Major Secondary Pipe Rupture. The first three events are of interest because the Overtemperature Delta-T Trip is the primary trip credited in the safety analyses. The fourth event is considered because steam flow in two steam lines-high coincident with T_{avg}-low-low is one of the signals credited to initiate at Engineered Safety Features actuation. The Overtemperature Delta-T Trip will continue to function in a manner consistent with the existing analysis assumptions for the first three events. The actual response time will be within the six seconds currently assumed. Similarly, the ESF response times will remain within those assumed in the safety analysis. hence there will be no increase in the consequences of previously evaluated accident.

(2) create the possibility of a new or different kind of accident from any previously analyzed. The proposed change will be performed in a manner consistent with the applicable standards, preserve the existing design bases, and will not adversely impact the qualification of any plant systems. This will preclude adverse control/protection systems interactions. The design, installation, and inspection of the new equipment will be done in accordance with ASME Boiler and Pressure Vessel Code criteria. By adherence to industry standards, the pressure boundary integrity will be preserved. As such, the possibility of a new or different kind of accident is not created.

(3) involve a significant reduction in a margin of safety. The applicable margins of safety are defined in Technical Specification Bases Sections 2.1.1 and 2.1.2. Bases Section 2.1.1 states that the minimum value of the Departure from Nucleate Boiling Ratio (DNBR) during steady state operation, normal operational transients, and anticipated transients is limited to 1.30. This value corresponds to a 95 percent probability at a 95 percent confidence level that Departure from Nucleate Boiling (DNB) will not occur. The restrictions of this fuel cladding integrity safety limit prevent overheating of the fuel and possible cladding integrity safety limit

prevent overheating of the fuel and possible cladding perforation which would result in the release of fission products to the coolant. The proposed change will not result in a decrease in the minimum DNBR reported in the UFSAR accident analyses.

Bases Section 2.1.2 states that the Safety Limit on maximum RCS pressure is 2735 psig. This Safety Limit protects the integrity of the RCS from overpressurization and thereby prevents the release of radionuclides contained in the reactor coolant from reaching the containment atmosphere. The proposed change will not result in an increase in the maximum RCS pressure reported in the UFSAR accident analyses.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing examples (51 FR 7744) of amendments that are considered not likely to involve significant hazards consideration. Example (ix) is:

A repair or replacement of a major component or system important to safety if the following conditions are met:

(1) The repair or replacement process involves practices which have been successfully implemented at least once on similar components or systems elsewhere in the nuclear industry or in other industries, and does not involve a significant increase in the probability or consequences of an accident previously evaluated or create the possibility of a new or different kind of accident from any accident previously evaluated; and

(2) The repaired or replacement component or system does not result in a significant reduction in any safety limit (or limiting condition of operation) associated with the component or system.

The proposed changes to the Salem Units 1 and 2 Technical Specifications are similar to changes approved at Byron Station Units 1 and 2 (52 FR 2785). As discussed earlier, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated or create the possibility of a new or different kind of accident from any previously evaluated. It does not result in a significant change in a component or system safety function or a significant reduction in any associated safety limit or limiting condition of operation.

Therefore, based on the above considerations, it has been determined that the proposed change does not involve a significant hazards consideration.

The addition of response times to the Auxiliary Feed Pump Section of table 3.3.5 and the addition of Station Blackout requirements corresponds to example (ii) of (51 FR 7744) as changes that impose an additional limitation not currently in the Technical Specifications. Changes to the footnotes were done to correct typographical errors and as such correspond to example (i) of (51 FR 7744). In either case the changes will not involve an increase in the probability or consequences of a previously analyzed accident, create a new or different kind of accident that previously analyzed, or reduce the margin of safety since the changes are being done to be consistent with previously reviewed and approved analyses.

The staff has reviewed the licensee's evaluations and concurs with the conclusions. Therefore, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

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NRC Project Director: Walter R. Butler

Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment requests: April 3, 1987 (TS 228)

Description of amendment requests: The proposed amendment would clarify conflicts between notes in the Technical Specifications (TS) and make various administrative corrections. More specifically, the amendment would change the TS as follows:

1. The TS would be revised to delete section 3.5.M, Reporting Requirements, the bases for it, and its reference in the index.

2. Note 7.d for Table 3.2.C would be revised.

3. The TS would be revised to make the Limiting Condition for Operation (LCO), 3.6.H.1, reflect the correct Surveillance Instruction (SI) number for the safety-related snubber list.

4. Section 2.1.C would be revised to show the correct reference of specification 4.5.L for the Surveillance Requirement for Average Power Range Monitor (APRM) setpoints.

5. Table 4.2.A note (14) would be deleted.

6. Footnote 22 of table 4.2.A would be moved to table 3.2.A as footnote 9. The wording has not changed and is still referenced by the same instrumentation. By adding a phrase to footnote 11 which acknowledges the applicability of footnote 9 to the specific radiation monitoring instrumentation to which it is intended to apply, the provisions of footnote 11 for Table 3.2.A, Primary Containment and Reactor Building Isolation Instrumentation, would be changed to be compatible with the provisions for the new footnote 9.

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 the Commission its analysis, using standards in 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 50.92, the licensee has performed the following analysis of these standards as they related to the proposed changes.

With the exception of Item Nos. 1 and 2 above the proposed amendments correct errors or eliminate inconsistencies. For Item No. 1, the proposed change would only remove a requirement that is redundant to the reporting requirements in section 6 of the TS and in 10 CFR 50.73. Furthermore, because no operability or surveillance requirements for systems, structures, or components used to terminate or mitigate accidents would be reduced, the amendments would not involve an increase in the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety.

While Item No. 2 removes an inconsistency, it also adopts the requirements of the Standard Technical Specification (STS) for the Rod Block Monitor (RBM) when both channels are inoperable. The current TS does not clearly and specifically address the possibility of both RBM channels being inoperable. Furthermore, the only difference in requirements after resolving the inconsistency is that the revised note requires that one RBM channel be tripped within 1 hour while the current note requires administrative controls be implemented to prevent control rod movement. These two differences are minor and tend to offset each other in any changes to the margin

of safety. Therefore, it has been evaluated and determined not to cause a significant reduction in a safety margin. Finally, since this correction would not change any surveillance requirements or modes of operation, it will not involve a significant increase in the probability or consequences of an accident previously evaluated or create the possibility of a new or different kind of accident.

Item Nos. 3, 4, 5, and 6 are administrative in nature in that only clarifications and corrections are made which do not affect the actual TS requirements. These TS changes would not eliminate or modify any protective functions, surveillance requirements, nor permit any new operational conditions. Therefore, they do not create the possibility of a new or different kind of accident or significantly increase the probability or consequences of an accident previously evaluated. Because the changes would clarify requirements and make corrections, the margin of safety will not be reduced.

Since the application for amendments involves proposed changes that are encompassed by the criteria for which no significant hazards consideration exists, the licensee has made a proposed 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. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: March 23, 1987

Description of amendment request: The proposed amendment to the Technical Specifications would revise the overall Steam and Feedwater Rupture Control System (SFRCS) response time for the Turbine Stop Valves (TSVs) from less than or equal to 6 seconds to less than or equal to 1 second. This change would affect Technical Specification 3/4.3.2.2, Table 3.3-13. Additionally, Bases Section 3/4.3.1 and 3/4.3.2 would be modified to accurately reflect the technical basis for the technical specification.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment request involves 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 amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the probability of a new or different kind of accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these criteria by providing certain examples, 51 FR 7750. One of the examples of an action not likely to involve a significant hazards consideration relates to amendments which impose additional limitations, restrictions, or control not presently included in the Technical Specifications, for example a more stringent surveillance requirement. The proposed amendment matches the Commission's example and on this basis, a proposed determination of no significant hazards consideration is made.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20036.

NRC Project Director: Martin J. Virgilio, Acting.

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: March 27, 1987

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Section 3/4.3.1, Table 3.3-1, by adding an additional Action applicable to Functional Unit 12, Control Rod Drive Trip Breakers, and by adding Functional Unit 15, SCR Relays. The Action added to Functional Unit 12 would require the return to operable status of an inoperable Reactor Trip Breaker diverse trip device within 48 hours or otherwise trip the breaker within the next hour. The addition of Functional Unit 15 would specify the numbers of Silicon Controlled Rectifier (SCR) relay channels required and to be operational, mode applicability, and action required.

The proposed amendment would also revise TS Section 3/4.3.1, Table 4.3-1, by adding an additional Channel Functional Test applicable to Functional Unit 12, Control Rod Drive Trip Breakers, and by adding Functional Unit 15, SCR Relays. The Channel Functional Test added to Functional Unit 12 would require independent verification of operability of both diverse trip devices. The addition of Functional Unit 15 would specify required Channel Functional Test frequency and mode applicability.

The proposed amendment is submitted in response to Item 4.4 of Generic Letter 83-28.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these criteria by providing certain examples, 51 FR 7750. One of the examples of an action not likely to involve a significant hazards consideration relates to amendments which impose additional limitations, restrictions or controls not presently included in the TSs, for example a more stringent surveillance requirement. The proposed amendment matches the Commission's example, and on this basis, a proposed determination of no significant hazards consideration is made.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20036.

NRC Project Director: Martin J. Virgilio, Acting.

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.

Arizona Public Service Company, et al., Docket No. STN 50-528, Palo Verde Nuclear Generating Station, Unit 1, Maricopa County, Arizona

Date of application for amendment: October 2, 1986

Brief description of amendment: The amendment revised Specification 3/4.6.1, "Primary Containment," and Specification 3/4.6.2, "Depressurization and Cooling Systems," to change (1) pressure values for testing containment leakage rates based on the results of a revised containment accident analysis, and (2) the Action statement for Specification 3.6.1.3 to allow a containment air lock door to be opened, for a cumulative time not to exceed one hour per year, to permit entry for repairing an inoperable inner air lock door.

Date of issuance: June 3, 1987

Effective date: June 3, 1987

Amendment No.: 17

Facility Operating License No.: NPF-41: Amendment revised the Technical Specifications.

Date of initial notice in the **Federal Register:** November 19, 1986 (51 FR 41844). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 3, 1987

No significant hazards consideration comments were received: No

Local Public Document Room location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Arizona Public Service Company, et al., Docket No. STN 50-528, Palo Verde Nuclear Generating Station, Unit 1, Maricopa County, Arizona

Date of application for amendment: May 10, 1987, as supplemented by letter dated May 14, 1987.

Brief description of amendment: The amendment revises Technical Specification 3/4.11.1 for a period not to exceed March 31, 1988, to allow the release of secondary system liquid waste to the onsite evaporation pond, while the concentration of Antimony-124 exceeds $5x10^{-7}$ micro Ci/ml, provided that the concentration does not exceed the limits of 10 CFR Part 20, Appendix B, Table II, Column 2.

Date of issuance: June 3, 1987

Effective date: June 3, 1987

Amendment No.: 18

Facilities Operating License No. NPF-41: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 19, 1987 (52 FR 18763) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 3, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85007.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: December 8, 1986.

Brief description of amendment: The amendment revises the Technical Specifications to permit operation of Indian Point Unit No. 2 with one or more inoperable Main Steam Line Safety Valves provided that the power range high flux setpoint is reducted to a specified value.

Date of issuance: May 28, 1987

Effective date: May 28, 1987

Amendment No.: 119

Facilities Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 11, 1987 (52 FR 4407) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 28, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Duke Power Company, et al., Docket No. 50-414, Catawba Nuclear Station, Unit 2, York County, South Carolina

Date of application for amendment: August 6, 1986, as supplemented March 5, 1987

Brief description of amendment: The amendment changes a license condition and Attachment 1 to NPF-52 to incorporate the recommendations and conclusions contained in the NRC staff's Safety Evaluation Report on Operability/Reliability of Emergency Diesel Generators manufactured by Transamerica Delaval, Inc., published as NUREG-1216.

Date of issuance: May 26, 1987

Effective date: May 26, 1987

Amendment No.: 18

Facility Operating License No. NPF-52. Amendment revised the Operating License

Date of initial notice in **Federal Register:** August 27, 1986 (51 FR 30561) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 26, 1987.

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: November 17, 1986

Brief description of amendments: The amendments modify Table 4.4-5 of Technical Specification 3/4.4.9 "Pressure/Temperature Limits," to provide a revised vessel surveillance capsule withdrawal schedule for Catawba Units 1 and 2.

Date of issuance: May 28, 1987

Effective date: May 28, 1987

Amendment Nos.: 28 and 19

Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 8, 1987 (52 FR 11360) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 28, 1987.

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, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: March 19, 1986, as supplemented December 3, 1986, and June 4, 1987

Brief description of amendments: The amendments change Technical Specification Figure 5.1-4 to add another discharge point from the Conventional Wastewater Basin into the Catawba River.

Date of Issuance: June 5, 1987

Effective Date: June 5, 1987

Amendment Nos.: 72 and 53

Facility Operating License Nos. NPF-9 and NPF-17. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 8, 1986 (51 FR 36088) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 5, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC) Station, North Carolina 28223

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: January 24, 1985, as supplemented February 17, 1987

Brief description of amendment: This amendment corrects two errors to Technical Specification 3.3.2.1 Engineered Safety Features (ESF) by (1) deleting "Manual Initiation (HPI Isolation)" from "Reactor Building Isolation," and (2) reversing an inequality sign for "RCS Pressure Low (HPI Isolation)."

Date of issuance: May 28, 1987

Effective date: May 28, 1987

Amendment No.: 100

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 22, 1986 (52 FR 13336) The February 17, 1987, letter withdrew the third change requested on the initial application and did not change the staff's evaluation. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 28, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application of amendment: December 18, 1986

Brief description of amendment: The amendment deletes the technical specifications associated with core support barrel excessive movement (TS 3/4.4.11). Core support barrel movement has been monitored for over nine years and no excessive motion has been detected.

Date of Issuance: May 20, 1987

Effective Date: May 20, 1987

Amendment No.: 80

Facility Operating License No. DPR-67: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 14, 1987 (52 FR 1549) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 20, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application of amendment: March 17, 1987

Brief description of amendment: The amendment changes the Reactor Coolant System Pressure/Temperature (P/T) limit figures to be effective up to ten (10) effective full power years of operation. The amendment also changes the technical specifications dealing with overpressure protection systems because they are linked with the new P/T limit figures. The applicable bases sections were changed to reflect the above changes.

Date of Issuance: June 5, 1987

Effective Date: June 5, 1987

Amendment No.: 81

Facility Operating License No. DPR-67: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 8, 1987 (52 FR 11363) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 5, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application of amendment: February 24, 1987.

Brief description of amendment: The amendment revised the Technical Specifications (TSs) such that the Surveillance Requirement for TS 4.6.1.7.4, Containment Ventilation System, requires each 8-inch containment purge supply and exhaust isolation valve be demonstrated operable at least once per 92 days.

Date of Issuance: May 20, 1987

Effective Date: May 20, 1987

Amendment No.: 20

Facility Operating License No. NPF-16: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1987 (52 FR 9559) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 20, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

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 1, Appling County, Georgia

Date of application for amendment: March 4, 1987

Brief description of amendment: The amendment modifies the Technical Specifications to permit hydrostatic and leak testing with a non-critical reactor core.

Date of issuance: May 26, 1987

Effective date: May 26, 1987

Amendment No.: 137

Facility Operating License No. DPR-57. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1987 (52 FR 9568) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 26, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

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 1, Appling County, Georgia

Date of application for amendment: February 6, 1987

Brief description of amendment: The amendment modifies the Technical Specifications to: (1) reduce the limits on the Standby Liquid Control System (SLCS) sodium pentaborate solution concentration versus volume and concentration versus temperature to reflect the use of sodium pentaborate that has been enriched in Boron-10; (2) reduce the minimum acceptable SLCS pump flow rate from 43 to 41.2 gallons per minute; and (3) remove level and temperature alarm setpoint values from the concentration versus volume and the concentration versus temperature limit curves.

Date of issuance: May 28, 1987

Effective date: May 28, 1987

Amendment No.: 138

Facility Operating License No. DPR-57. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1987 (52 FR 9568) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 28, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: February 13, 1987, as supplemented May 18, 1987

Brief description of amendments: The amendments modify the Technical Specifications related to scram speed limit, scram speed measurement requirements, definition of design power, minimum critical power ratio limit (MCPR), lead test fuel assemblies, and the average planar linear heat generation rate limits curve. By letter of May 18, 1987, the licensee provided additional supporting information and deleted its request to change the MCPR scram time parameters for Unit 2.

Date of issuance: June 1, 1987

Effective date: June 1, 1987

Amendment Nos.: 139 and 76

Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1987 (52 FR 9570). The May 18, 1987, letter was explanatory and did not change the staff's original evaluation.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 1, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of application for amendment: August 4, 1986 as supplemented August 15 and September 26, 1986.

Brief description of amendment: The amendment changed the Technical Specification requirements to subject the Transamerica Delaval, Inc. emergency diesel generators to an inspection in accordance with procedures prepared in conjunction with its manufacturer's recommendations from at least once every 18 months to at least every refueling outage.

Date of issuance: June 4, 1987

Effective date: June 4, 1987

Amendment No. 5

Facility Operating License No. NPF-47. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 22, 1986 (51 FR 37512) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 4, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Indiana and Michigan Electric Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: February 25, 1987.

Brief description of amendments: The amendments revised the ice condenser inlet door surveillance requirements to allow testing in Modes 3 and 4.

Date of issuance: May 29, 1987.

Effective date: May 29, 1987.

Amendment Nos.: 110 and 93.

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1987 (52 FR 9571). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 29, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: April 25, 1986 as clarified by a letter dated October 31, 1986.

Brief description of amendment: The amendment revised the Technical Specification (TS) definitions and makes changes to the TS surveillance intervals to conform to the change of the operating cycle from 12 to 18 months.

Date of issuance: May 21, 1987

Effective date: May 21, 1987

Amendment No.: 143

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 2, 1986 (51 FR 24256) The October 31, 1986 submittal provided clarifying information and did not change the finding of the initial notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 21, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Cedar Rapids Public Library,

500 First Street, S.E., Cedar Rapids, Iowa 52401.

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

Brief description of amendment: This amendment changes 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 amendment to the Technical Specification deletes that requirement.

Date of Issuance: May 20, 1987

Effective Date: May 20, 1987

Amendment No.: 97

Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 19, 1986 (51 FR 41863). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 20, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: January 30, 1987, as supplemented on March 27, May 13 and 20, 1987

Brief description of amendment: This amendment changes Technical Specification 4.7.2.e.3 to allow an increase from 525 cfm to 2100 cfm in the amount of outside air which is taken in by the control room HVAC systems in order to maintain a control room internal positive pressure during the radiation isolation mode of operation of the control room habitability systems.

Date of issuance: June 2, 1987

Effective date: June 2, 1987

Amendment No. 5

Facility Operating License No. NPF-39. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 7, 1987 (52 FR 11144) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 2, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: January 22, 1987, as supplemented by letter of March 30, 1987

Brief description of amendments: These amendments revised the Technical Specifications on the Standby Liquid Control System to reflect modifications being made to Unit 2 during the current outage and similar modifications that will be made to Unit 3 during the next refueling outage (reload 7 for operation in cycle 8). The modifications are being made to meet the requirements of 10 CFR 50.62(c)(4) and to achieve more consistency with the BWR Standard Technical Specifications.

Date of issuance: June 2, 1987

Effective date: June 2, 1987

Amendments Nos.: 122 and 126

Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** (52 FR 9580) March 25, 1987 The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 2, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: October 10, 1986, as supplemented March 4, 1987.

Brief description of amendment: The amendment revises the Technical Specifications to add limiting conditions for operation and surveillance requirements for the reactor trip breakers and reactor trip bypass breakers.

Date of issuance: May 27, 1987

Effective date: May 27, 1987

Amendment No.: 74

Facilities Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 22, 1987 (52 FR 13346) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 27, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of application for amendment: September 24, 1986 as supplemented March 25, 1987

Brief description of amendment: This amendment modified the surveillance requirements for the Standby Diesel Generators.

Date of issuance: May 20, 1987

Effective date: May 20, 1987

Amendment No.: 54

Facility Operating License No. DPR-34. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 8, 1987 (52 FR 11371) The March 25, 1987 submittal clarified, without substantially changing the September 24, 1986 application.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 20, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: June 4, 1986

Brief description of amendments: The amendments change the Technical Specifications relating to requirements for the Rod Worth Minimizer and the Rod Sequence Control System.

Date of issuance: May 13, 1987

Effective date: May 13, 1987, and shall be implemented within 90 days.

Amendments Nos.: 133, 129, and 104

Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 10, 1986 (51 FR 32279) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 13, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: December 19, 1986.

Brief description of amendment: The amendment revises Technical Specifications (TS) Figure 3.9-1 with correct curves for Westinghouse optimized fuel (OFA) and standard fuel (SFA). Figure 3.9-1 now also incorporates a curve for Westinghouse Vantage Fuel (V5) which overlays the OFA curve. TS Sections 5.3.1 and 5.6.1.1 are also revised to reflect a maximum enrichment of 4.25 w/o U-235 for fuel storage.

Date of issuance: May 22, 1987.

Effective date: May 22, 1987.

Amendment No.: 23.

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 28, 1987 (52 FR 2893) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 22, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of amendment requests: January 6, March 3, and March 12, 1987

Brief description of amendment: This amendment revised Section 3/4.1.5, Standby Liquid Control (SLC) System Surveillance Requirements, of the WNP-2 Technical Specifications to permit compliance with the ATWS regulation, 10 CFR 50.62(c)(4), to be achieved with the two existing 41.2 gpm SLC pumps by effecting an increase in the sodium pentaborate decahydrate solution concentration in conjunction with simultaneous operation of the two pumps. Related Figures 3.1.5-1 and 3.1.5-2 are also modified.

Date of issuance: May 29, 1987

Effective date: May 29, 1987

Amendment number: 43

Facility Operating License No. NPF-21: Amendment revises the license.

Date of initial notice in the **Federal Register:** April 22, 1987 (52 FR 13351) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 29, 1987

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: November 18, 1986 and January 7, February 25, and April 15, 1987.

Brief description of amendment: This amendment revises Table 3.6.3-1 (Primary Containment Isolation Valves) of the WNP-2 Technical Specifications to include a new valve, TIP-V-15, on the Traversing Incore Probe system nitrogen purge line in accordance with General Design Criteria 54 and 56.

Date of issuance: June 2, 1987

Effective date: June 2, 1987

Amendment number: 44

Facility Operating License No. NPF-21: Amendment revises the Technical Specifications.

Date of initial notice in the **Federal Register:** March 12, 1987 (52 FR 7702) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 2, 1987.

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: March 10, 1987, as supplemented March 31, 1987

Brief description of amendment: This amendment revises the license to permit the licensee to delay implemention of the requirements of Regulatory Guide 1.97, Revision 2, for flux monitoring until the third refueling outage instead of prior to startup following the second refueling outage.

Date of issuance: June 3, 1987

Effective date: June 3, 1987

Amendment number: 46

Facility Operating License No. NPF-21: Amendment revises the license.

Date of initial notice in the **Federal Register:** April 8, 1987 (52 FR 11378) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 3, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: March 12, April 10, April 24, 1987

Brief description of amendments: The amendments modify Technical Specification 15.5.3 to remove certain limitations on the repair of leaking fuel rods so long as the repairs proposed during a given outage can be justified by a cycle-specific reload analysis.

Date of issuance: May 27, 1987.

Effective date: May 27, 1987.

Amendment Nos.: 108 and 111.

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 27, 1987 (52 FR 13886). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 27, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Wolf Creek Nuclear Operating Corporation, Kansas Gas and Electric Company, Kansas City Power & Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: November 14, 1986 as supplemented April 17, 1987.

Brief description of amendment: The amendment changed the Technical Specifications to increase overall emergency diesel generator reliability and to prevent undue stress and wear on the diesel generator engines.

Date of issuance: May 29, 1987

Effective date: May 29, 1987

Amendment No.: 8

Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 17, 1986 (51 FR 45206). The licensee's April 17, 1987 submittal provided clarifying footnotes and minor changes to the Technical Specifications that specified more clearly how the NRC staff positions were met. This submittal is acceptable to the staff and did not alter the NRC staff's conclusion regarding a no

significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 29, 1987.

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 University School of Law Library, Topeka Kansas

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: October 9, 1986

Brief description of amendment: The amendment modifies the Technical Specifications relating to surveillance requirements for the power range and intermediate power range neutron flux channels.

Date of issuance: May 13, 1987

Effective date: May 13, 1987

Amendment No.: 105

Facility Operating License No. DPR-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 19, 1986 (51 FR 41872). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 13, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated. For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By July 17, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the

nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: May 4, 1987

Brief description of amendment: The amendment grants a one-time exception to extend the leak testing interval of the Main Steam Isolation Valves in steamline "A" from May 31, 1987, to July 12, 1987.

Date of Issuance: May 29, 1987
Effective Date: May 31, 1987
Amendment No.: 5

Facility Operating License No. NPF-58: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (52 FR 18299, May 14, 1987). No comments were received.

The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of Ohio, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated May 29, 1987.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037

Local Public Document Room Location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

NRC Project Director: Martin J. Virgilio, Acting Director.

Pennsylvania Power and Light Company, Docket No. 50-387 Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of Application for amendment: May 14, 1987, supplemented by letters dated May 19 and 21, 1987

Brief description of amendment: The amendment has been prepared and issued on an emergency basis to permit continued operation of SSES Unit 1 until the next scheduled refueling and inspection outage expected to start on September 12, 1987. Specifically, the amendment changes the Technical Specification Section 3.6.3 to permit consideration of Valve, HV-155F002, operable with the current minimum torque switch setting.

Date of Issuance: May 28, 1987
Effective Date: May 22, 1987
Amendment No.: 65
Facility Operating License No. NPF-14: Amendment revised the Technical Specifications

Public comments requested as to proposed no significant hazards consideration: No

The Commission's related evaluation of the amendment, consultation with the State of Pennsylvania and final no significant hazards considerations determination are contained in a Safety Evaluation dated May 28, 1987.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge 2300 N Street NW., Washington, DC 20037

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18071.

NRC Project Director: Walter R. Butler

Dated at Bethesda, Maryland this 11th day of June, 1987

For the Nuclear Regulatory Commission

Steven A. Varga, Director

Division of Reactor Projects I/II

Office of Nuclear Reactor Regulation

[FR Doc. 87-13745 Filed 5-16-87; 8:45 am]

BILLING CODE 7590-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24571; File No. SR-CBOE-87-19]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc., Relating to the new Standard and Poor's 500 Stock Index Option Contract (NSX)

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 May 7, 1987, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

This proposed rule change seeks to make permanent the new Standard and Poor's 500 stock index (S&P 500) option contract (NSX), the exercise settlement value of which is based on an index value derived from opening, rather than closing, prices on the last business day prior to its expiration. It should be noted that the settlement value will be different from the current index value at any point in time because the opening prices of the constituent stocks will be established at different times. (If a stock does not open, the prior closing price will be used to calculate the exercise settlement value.) The expiration months of this European-style contract are March, June, September and December. There is no trading in NSX on the business day before expiration Saturday. Position limits are 15,000 contracts on the same side of the market in any combination of NSX and SPX option contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

By means of this rule change filing, the Exchange seeks permanent approval of the new S&P 500 option contract (NSX), which is the same as the current S&P 500 option contract (SPX), except that NSX's exercise settlement value will be based on opening prices of each stock comprising the index on the last business day prior to expiration Saturday. This value will be different than the current index value at any point in time, since the opening prices of the constituent stocks will be established at differnt times. NSX has expiration months of March, June, September and December, the same expiration months as the S&P 500 futures contract.

The Exchange takes this action because the Chicago Mercantile Exchange (CME) has moved the S&P 500 futures contract's settlement value to opening prices on the delivery date. CBOE continues to believe that heightened volatility at expiration of index options and futures can better be addressed by improving procedures for information dissemination at the close of trading than by changing the terms of contracts to provide for exercise settlement based on opening prices. However, in light of the action of the CME, CBOE believes it should promptly provide investors in SPX an alterntive contract valued on the same basis as the S&P 500 future. Introduction of NSX will provide investors with offsetting S&P 500 futures and SPX positions with a means of alleviating risk resulting from disparate valuation methods.

While a change to outstanding contracts would appear more straightforward than introduction of new contracts with changed terms, that alternative is not available. The Options Clearing Corporation ("OCC"), out of justifiable concern for potential liability, had declined to alter the terms of outstanding contracts.[1]

CBOE recognizes that the existence of two S&P 500 options contracts in the same expiration month with different methods of valuation may give rise to confusion. However, CBOE believes that the potential for confusion should not be an obstacle to introduction of NSX. SPX is used primarily be institutional investors, who have indicated a need to have the option settle as the future does.

The statutory basis for the proposed rule change is section 6(b)(5) of the Securities Exchange Act of 1934 (the Act), in that the change will facilitate transactions in options on the S&P 500.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change is designed to promote competition by permitting exchange customers to choose between S&P 500 option contracts valued at opening (NSX) or at closing (SPX) prices for exercise settlement purposes.

(C) Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on this proposed rule change filing were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if its finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to this proposed rule change that are filed with the Commission, and all written communication 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 the file number in the caption above and should be submitted by July 8, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 10, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13824 Filed 6-16-87; 8:45 pm]

BILLING CODE 8010-01-M

[1] The Commission notes that the OCC recently amended its disclosure document to disclose that the settlement of index option contracts may be altered, and also adopted a By-law amendment that will permit options exchanges' to provide by rule that the settlement value of any index on which options are traded on a particular exchange will be determined by reference to the prices of the constitutent stocks at times other than the close of trading.

[Release No. 24579; File No. SR-NASD-87-8]

Self-regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers , Inc. Relating to Proposed Amendments to Schedule D to the NASD By-Laws

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") a proposed rule change on February 10, 1987, and an amendment thereto on April 14, 1987, as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed revision to Schedule D to the NASD By-Laws, which governs the operation of the NASDAQ System, is to increase the unsefulness of Schedule D as a reference tool for NASDAQ issuers, NASDAQ market makers and other NASD members. In addition to making certain organizational changes and editorial revisions, the NASD has updated Schedule D to reflect current NASDAQ practice and procedure and incorproated in Schedule D certain relevant material that now appears in the NASDAQ Symbol Directory and other NASD notices and publications. A table of contents and a definitional section have also been added.

II. Self-Regulatory Organization's Statements Regarding the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV, below. The NASD has prepared summaries, set forth in sections (A), (B), and (C), below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed revision of Schedule D to the NASD By-Laws, which governs the operation of the NASDAQ System, is to increase the usefulness of Schedule D as a reference tool for NASDAQ issuers, NASDAQ market makers and other NASD members. In addition to making certain organizational changes and editorial revisions, the NASD has updated Schedule D to reflect current NASDAQ practice and procedure and incorporated in Schedule D certain relevant material that now appears in the NASDAQ Symbol Directory and other NASD notices and publications. A table of contents and a definitional section have also been added.

The following is a summary of the substantive changes made to each part.

Part I

Part I is new. It contains definitions for the terms used in Schedule D, with the exception of terms relating to options. For the present, options definitions will remain in the options section of Schedule D, renumbered as Part VII.

Part II

Part II contains the qualification requirements for domestic and foreign NASDAQ securities. The major substantive changes to these requirements are as follows:

Firm commitment offerings may be included in NASDAQ upon the effective date of the registration statement. Offerings conducted on a "best efforts" basis may be included only upon the closing of the offering.

Annual Reports filed with the NASD by domestic issuers must contain audited financial statements.

Assets that are temporary in nature or restricted in their use shall not be included in determining an issuer's total assets.

Debentures and redeemable securities with the redemption provision within the sole control of the holder will be excluded from the determination of an issuer's capital and surplus.

Foreign issuers will be required to register pursuant to section 12(g) of the Act to be eligible for inclusion in the NASDAQ System.

Minimum average daily trading volume requirements for foreign shares during the first 90 days of trading have been eliminated.

The number of market makers required for a foreign issue's initial inclusion in NASDAQ has been reduced to two from three.

Requirements of 100,000 shares of float and 300 shareholders for foreign issues have been added.

NASDAQ issuers involved in bankruptcy proceedings or whose financial statements contain a disclaimer opinion may be suspended or terminated from inclusion in the NASDAQ System.

Part III

Part III, a new section concerning qualification requirements for NASDAQ National Market System securities, is the subject of a separate proposed rule change currently pending before the Commission (file number SR-NASD-86-27).

Parts IV and V

Parts IV and V were formerly numbered as Parts VI and VII. No changes have been made at this time.

Part VI

Part VI, formerly Part I, contains the requirements applicable to NASDAQ market makers. This part now includes:

Registration requirements for NASDAQ market makers.

An explicit requirement for market makers to maintain a two-sided market.

NASD authority to suspend the quotations of a market maker whose quotations are not reasonably related to the market and that fails to update its quotations.

The table of maximum allowable spreads currently located in the NASDAQ Symbol Directory.

Revised procedures for withdrawing quotations. Currently, market makers are permitted to withdraw their quotations as long as they obtain excused withdrawal status prior to re-entering quotations. The revised procedures require a market maker to obtain excused withdrawal status prior to withdrawing quotations. New limits are also placed on the length of excused withdrawals. Excused withdrawals based on illness, vacations or physical circumstances beyond the market maker's control may be granted for up to five days, unless extended. Excused withdrawals based on a firm's investment banking activities may be granted for up to 60 days.

Part VII

Part VII, formerly Part III, contains the requirements applicable to market makers participating in the Consolidated Quotations Service ("CQS"). The changes to this part parallel those made to new Part VI with respect to NASDAQ market makers. This part now includes:

Registration procedures for CQS market makers.

An explicit statement of the requirement of Commission Rule 11Acl-1 that quotations in reported securities be firm for a normal unit of trading or for the size displayed.

A requirement that quotations displayed in both CQS and the NASDAQ System be identical.

Revised procedures for withdrawing quotations in CQS securities. Market markers will be required to obtain excused withdrawal status prior to withdrawing quotations in CQS securities. New limits are also placed on the length of an excused withdrawal. An excused withdrawal based on illness, vacations or physical circumstances beyond the market marker's control may be granted for up to five days. An excused withdrawal based on a firm's investment banking activities may be granted for up to 60 days.

Parts VIII and IX

Parts VIII and IX were formerly numbered as Parts IV and V, respectively. No changes have been made at this time.

Parts X Through XIII

Parts X through XIII were formerly numbered as Parts VIII through XI. No changes have been made at this time.

The NASD believes the proposed revision of Schedule D is consistent with section 15A(b)(6) of the Act, which provides that the rules of a registered securities association shall be designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in resulting, clearing, settling, processing information with respect to, and facilitating transactions in, securities, remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed amendments to Schedule D will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The NASD solicited comments on the proposed revision of Schedule D in Notice to Members 86–55 (July 30, 1986). Four comment letters were received. The commentators were generally supportive of the proposed amendments, but requested certain revisions and clarifications as described below.

One commentator requested clarification of certain terms used in Part II. The commentator stated that the terms "temporary" and "restricted" assets used in sections 1(c)(2) and 2(e)(2) of Part II should be defined to clarify that they will be intepreted in accordance with generally accepted accounting principles ("GAAP"). The commentator also stated that, when the terms "temporary" and "restricted" assets are used in the context of foreign issuers in section 2(e)(2) of Part II, it would be advisable to specify whether U.S. GAAP or the GAAP of the issuer's country of domicile will govern. The Board of Governors believes that, in most cases, U.S. GAAP principles will apply. Under certain circumstances, however, a broader standard may be appropriate and the Board therefore declined to clarify the terms as requested.

The Board also declined to modify the language of sections 1(c)(3) and 2(e)(3) of Part II with respect to the exclusion of "debentures and redeemable securities with the redemption provision within the sole control of the holder" from the calculation of capital and surplus. As the commentator suggests, convertible debentures and redeemable preferred stock are the securities that would typically be excluded by these provisions. The Board believes however, that there may be other securities with similar charactertistics that should also be excluded and therefore decided not to limit the scope of these sections. The Board also found it unnecessary to provide a definition for the term "disclaimer opinion" as used in section 3(a)(2) of Part II.

The commentator inquired whether financial statements and accompanying schedules submitted by foreign issuers pursuant to section 2(e)(2) of Part II will require information exceeding that required by Commission registration and reporting requirements. The NASD believes that satisfaction of Commission requirements in financial statements and schedules submitted by foreign issuers should suffice. The NASD may find it necessary, however, to request additional documentation in order to make a determination on inclusion.

A second commentator, as NASDAQ issuer, objected to the requirement contain in section 1(c)(12) of Part II that annual reports contained audited financial statements. As an insurance company subject to state regulation, the issuer is not currently required to prepare audited annual statements. In adopting the requirement for audited annual reports, the Board was aware that there are two insurance companies currently included in NASDAQ that are not required to prepare audited annual statements. The Board has determined it appropriate to "grandfather" these two issuers. The requirement for audited annual statements will be imposed, however, on all future issuers.

The third commentator stressed the importance of providing ample notice to issuers of their suspension or termination from NASDAQ. Under current NASDAQ procedures, an issuer that fails to comply with NASDAQ qualification standards is notified that its securities are subject to deletion and that temporary relief may be sought through the exception process. If the issuer requests an exception, its securities remain included in NASDAQ until action is taken on the request. If the issuer does not request an exception or fails to respond, its securities are deleted 10 business days after the notice is sent. In these situations, however, the NASDAQ staff makes every effort to contact the issuer before deletion.

The fourth commentator raised three issues. First, it suggested that section 3 of Part IV be revised to clarify that a market maker that notifies NASDAQ of its intent to enter a stabilizing bid is not precluded from subsequently deciding not to enter a stabilizing bid. The Board found it unnecessary to add this clarification, which reflects current NASDAQ practice.

Second, the commentator inquired whether a request for an excused withdrawal based on investment banking activity or advice of counsel under section 7 of Part VI must be in writing and whether such an excused withdrawal could exceed 60 days. The Board concluded that requests for excused withdrawals based on investment banking activity should be submitted in writing, but determined that no extension beyond 60 days should be granted.

Third, the commentator requested that current market makers be "grandfathered" with respect to NASDAQ and CQS market maker registration requirements. The Board noted that the new provisions in Parts VI and VII regarding NASDAQ and CQS market maker registration do not reflect new substantive requirements, but merely codify existing practice. Re-registration of currently registered market makers would therefore be unnecessary.

III. DATE OF EFFECTIVENESS OF THE PROPOSED RULE CHANGE AND TIMING FOR COMMISSION ACTION

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii)

as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-87-8 and should be submitted by July 8, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: June 10, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13825 Filed 6-16-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24565; File No. 4-284]

Self-Regulatory Organizations; Filing of Proposed Plan by the New York Stock Exchange, Inc., Relating to the Quarterly Reporting of Minor Disciplinary Rule Violations

Pursuant to section 19(d)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19d-1(c)(2) thereunder, [1] notice is hereby given that on March 27, 1987, the New York Stock Exchange ("NYSE") submitted copies of a proposed amendment to its minor rule violation plan. The Commission previously approved a minor rule violation plan filed by the NYSE.[2] The plan relieves the NYSE of the current reporting requirement imposed by section 19(d)(1) of the Act, for final disciplinary actions, with respect to violations listed under the NYSE plan.[3]

The proposed amendment would add violations of NYSE Rule 476(11) to the list of minor rule violations subject to the plan. Presently, NYSE Rule 476(11) provides the NYSE with authority to discipline its members for failure to submit books and records pursuant to an NYSE request, and for failure to furnish information to or appear or testify before the NYSE or any other SRO. The NYSE has proposed amendments to Rule 476(11) that would give the NYSE authority to discipline a member for failure to comply with an NYSE request for information pursuant to the Rule by the date specified by the Exchange.[4] The NYSE intends to include this proposed provision, pusuant to Commission approval, within its minor rule violation plan. Violations of Rule 476(11) would be reported to the Commission in a manner identical to all other violations subject to the minor rule violation plan: A quarterly report listing the NYSE internal file number for the case, the SEC file number, name of individual or member organization, nature of the violation, specific rule provision violated, date of violation, fine imposed, an indication of whether the fine is joint or several, the number of times the rule violation has occurred, and the date of disposition.[5]

In order to assist the Commission in determining whether to approve the proposed amendment to the plan or institute proceedings to determine whether the proposed amendments should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission by July 8, 1987. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth St., NW., Washington, DC 20549. Reference should be made to File No. 4-284. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed amendment to the plan which are filed with the Commission, and all written communications relating to the proposed amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth St., NW., Washington, DC. Copies of the File No. 4-284 will be available also at the principal office of the NYSE.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 9, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13826 Filed 6-16-87; 8:45 am]

BILLING CODE 8010-01-F

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[1] *See* Securities Exchange Act Release No. 22103 (June 1, 1984), 49 FR 23838. The Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow self-regulatory organizations ("SROs") to submit, for Commission approval, plans for the abbreviated reporting of minor rule violations. Under the amendments, any disciplinary action taken by the SRO for violation of an SRO rule that has been designated a minor rule violation pursuant to the plan shall not be considered "final" for purposes of section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies.

[2] *See* Securities Exchange Act Release Nos. 22300 (August 8, 1985) and 22415 (September 15, 1985).

[3] *See* NYSE Rule 476A ("Imposition of Fines for Minor Violations of Rules"); Securities Exchange Act Release No 21688 (January 25, 1985) 50 FR 5025 (approving NYSE Rule 476A).

[4] *See* Securities Exchange Act Release No. 24363 (April 17, 1987), 52 FR 13781.

[5] The fine schedule for Rule 476A is as follows: (1) First offense, a fine of $500 for an individual and $1,000 for a member organization: (2) second offense, a fine of $1,000 for an individual and $2,500 for a member organization: (3) subsequent fines are $2,500 for an individual and $5,000 for a member organization. Fines in excess of $2,500 are not covered by the minor rule violation plan, and therefore not exempt from the current reporting requirements of Rule 19d-1.

[Release No. 34-24566; File Nos. SR-PCC-87-01; SR-PSDTC-87-04; SR-PSDTC-87-01]

Self-Regulatory Organizations; Pacific Clearing Corp. and Pacific Securities Depository Trust Company; Order Wtihdrawing Proposed Rule Changes

On February 17, 1987 and March 9, 1987, Pacific Securities Depository Trust Company ("PSDTC") filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), three proposed rule changes. On February 17, 1987, PSDTC filed to expand its definition of "Special Representative" to encompass all registered clearing agencies with whom PSDTC dealt in the course of its business. Notice of that proposed rule change was published on March 9, 1987.[1] The other proposed rule changes involved adding to PCC and PSDTC by-laws a provision that would codify the rights of PCC/PSDTC participants and define liability responsibilities in the use of PCC/PSDTC communication services. Notice of those proposed rule changes was

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[1] *See* Securities Exchange Act Release No. 24153 (March 9, 1987), 52 FR 7241 (File No. SR-PSDTC-87-01).

published on April 16, 1987.[2] By a letter dated May 15, 1987, PCC and PSDTC requested that these proposed rule changes be withdrawn. This withdrawal is pursuant to the Pacific Stock Exchange's decision to close operations of PCC and PSDTC.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes be, and hereby are, withdrawn.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: June 9, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13727 Filed 6-16-87; 8:45 am]

BILING CODE 8010-01-M

[Release No. 34-24580; File No. SR-Philx-87-09]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and rule 19b-4 thereunder [2], the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), on March 31, 1987, submitted to the Securities and Exchange Commission ("Commission") a proposed rule change to require specialists and Registered Options Traders ("ROTs") to make ten-up markets under certain circumstances.

The proposed rule change was published for comment in Securities Exchange Act Release No. 24378 (April 22, 1987), 52 FR 15581. No comments were received.

The proposed rule change was published for comment in Securities Exchange Act Release No. 24378 (April 22, 1987), 52 FR 15581. No comments were received.

The proposed rule amendment would allow the Exchange to require specialists and ROTs quoting the best bid or offer in nearest expiration options series that are at, just in, and just out-of-the-money to ensure that orders are filled to a minimum depth of ten contracts. The requirement would apply only with respect to the filing of public customer orders and only when the specialist or ROT is quoting the best bid or offer for his or her own account.

In addition, the rule amendment would require a specialist or ROT who is not quoting the best bid (or offer) in the above-mentioned series to provide a fill of up to five contracts for a public customer order to sell (or buy) the option at a price calculated by subtracting (or adding) the maximum permitted quotation spread from (or to) the best offer (or bid) in the market.

The new requirements are intended to apply to all trading crowds on the Exchange floor. Specialists and ROTs in one or more trading crowds could be excused from the rule's requirements, however, under fast market conditions or under other circumstances that are approved by two Phlx floor officials. Finally, the proposed amendment would include a fine schedule for rule violations.

The Phlx proposal should benefit customers by increasing the size of orders for which they can be assured executions to a minimum depth of ten contracts at the best bid or offer as quoted by a specialist or ROT. In addition, the propopsal should encourage options specialsts and ROTs to become more competitive in making size markets, thereby facilitating transactions in securities and contributing to a more free and open market.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [3] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: June 11, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13828 Filed 6-16-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24570; SR-SSE-86-1]

Self-Regulatory Organizations; Proposed Rule Change by Spokane Stock Exchange, Inc.; Relating to Adoption of a New Constitution and Rules of Fair Practice

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, ("Act") 15 U.S.C. 78s(b)(1), notice is hereby given that on April 18, 1986, the Spokane Stock Exchange, Inc. ("SSE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of this rule change is to establish more efficient procedures for the selection of members, the function of committees, the election of officers and the conduct of business of the Exchange. In addition, it is necessary for the Exchange to adopt procedures for the discipline of members that are consistent with the due process requirements of the Act and to adopt Rules of Fair Practice to govern trading activities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Amended Constitution for the Government of the Exchange complies with the requirements of section 6 of the Act and establishes detailed procedures for the operation of the Exchange, including the following:

1. Definition of terms, including specific reference to the term "arbitration" pursuant to the rules of the Securities Industry Conference on Arbitration.

2. Establishment of a Board of Governors of the Exchange, filling of vacancies on the Board and the election of officers with specific duties.

3. Establishing standing committees on membership, resolution of disputes, listing, auditing, and compliance, the compliance committee being a new committee authorized by the proposed rule change.

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[2] *See* Securities Exchange Act Release Nos. 24318 (April 16, 1987), 52 FR 12486 (File No. SR-PCC-8704), and 24316 (April 16, 1987), 52 FR 12486 (File No. SR-PSDTC-87-04).

[1] 15 U.S.C. 78s(b)(1) (1984).

[2] 17 CFR 240.19b-4 (1986)

[3] 15 U.S.C. 78f (1984).

[4] 15 U.S.C. 78s(b)(2) (1984).

4. Procedures for acceptance of new members.

5. Establishing new procedures for discipline of members, including granting the Board of Governors the power to suspend a member summarily in the event that member is expelled, suspended, or barred from association with a member of any other self-regulatory organization.

6. Adoption of more efficient rules for the transaction and conduct of business, including a new section dealing with cross-trades.

7. Granting the Board of Governors the power to adopt rules of fair practice for the purpose of establishing guidelines for the conduct of member business, with the power in the Board to amend those rules without the approval of the members.

The proposed rule change also includes the adoption of Rules of Fair Practice that are consistent generally with the Rules of Fair Practice of the National Association of Securities Dealers.[1]

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Act

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approved such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth St. 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 St., NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 8, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 10, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13829 Filed 6-16-87; 8:45 am]

BILLING CODE 8010-01-M

[1] The text of the proposed SSE Constitution is available in the places specified in Item IV below.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

June 10, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Progressive Corp.

Common Stock, $1.00 Par Value (File No. 7-0213)

Progressive Income Equity Fund, Inc.

Common Stock, $0.001 Par Value (File No. 7-0214)

Williams Companies (Delaware)

Common Stock, $1.00 Par Value (File No. 7-0215)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 1, 1987 written data, views and agruments concerning the above-references applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13830 Filed 6-16-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

June 10, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

American International Group

Common Stock, $2.50 Par Value (File No. 7-0216)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 1, 1987 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the manitenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13831 Filed 6-16-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

June 10, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

TW Services, Inc.

Common Stock, $0.01 Par Value (File No. 7-0217)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 1, 1987 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13832 Filed 6-16-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15795; 812-6615]

CityFed Funding Corp.; Notice of Application

June 10, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: CityFed Funding Corp. ("Depositior") and certain trusts ("Trusts") that the Depositor may form from time to time (collectively, the "Applicants").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from all provisions of the 1940 Act.

Summary of Application: The Applications seek an order exempting the Depositor and certain Trusts from all provisions of the 1940 Act for the limited purpose of issuing collateralized mortgage obligations, investing in certain mortgage certificates, and selling beneficial interests in the Trusts.

Filing Date: The application was filed on February 4, 1987, and amended on February 25, and April 17, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on July 1, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, Washington DC 20549. Applicants: CityFed Funding Corp., Wilmington Trust Center, 1100 Market Street, Wilmington, Delaware 19801.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Richard Pfordte at (202) 272-2811, or Special Counsel Karen L. Skidmore at (202) 272-3023 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations.

1. Depositor is a wholly-owned limited purpose subsidiary of CityFed Mortgage Bancorp, Inc. (formerly City Consortium Corporation), a service corporation subsidiary of City Federal Savings Bank, a federally chartered savings bank headquartered in Bedminster, New Jersey. Depositor, a Delaware corporation, was organized to facilitate the financing of mortgage loans through the issuance of one or more series of bonds secured by such mortgages and it will not engage in any business or investment activities unrelated to such purpose.

2. Depositor will form separate trust ("Trusts") for the limited purpose of issuing one or more series ("Series") of collateralized mortgage obligations ("Bonds") and investing in certain Mortgage Certificates [1] which will be used to collateralize such Bonds.

3. Each Trust will be established under a separate deposit trust agreement ("Trust Agreement") between the Depositor, acting as depositor, and a bank or trust company or other fiduciary acting as owner-trustee ("Owner Trustee"). Each Trust will issue one or more Series of Bonds under the terms of an indenture ("Indenture") between the Owner Trustee and an independent trustee ("Trustee"), as supplemented by one or more series supplements. The Indenture will be qualified under the Trust Indenture Act of 1939 unless an appropriate exemption is available.

4. In the case of each Series of Bonds: (a) Each Trust will hold no substantial assets other than the Mortgage Certificates; (b) the Bonds will be secured by Mortgage Certificates and other Collateral having a collateral value determined under the Indenture, at the time of issuance and following each payment date, equal to or greater than the outstanding principal balance of the Bonds; (c) distributions of principal and interest received on the Mortgage Certificates securing the Bonds and any applicable reserve funds, plus reinvestment income thereon, will be sufficient to pay all interest on the ZBonds and to retire each class of Bonds by its stated maturity; and (d) the Mortgage Certificates will be assigned

[1] By definition, the "Mortgage Certificates" collateralizing the Bonds will consist of (1) "fully-modified" pass-through mortgage-backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"), (2) mortgage participation certificates issued by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"), and (3) guaranteed mortgage pass-through securities issued by the Federal National Mortgage Association ("FNMA Certificates"). All or portion of the Mortgage Certificates securing a Series of Bonds may be "partial pool" Mortgage Certificates. Some of the GNMA Certificates securing a Series of Bonds may be backed by mortgage loans that provide for payments during the initial portion of their term that are less than the actual amount of principal and interest payable thereon on a level debt service basis ("GPM GNMA Certificates"). In addition to the Mortgage Certificates directly securing the Bonds, a Series may have additional collateral which may include certain collection accounts and reserve funds as specified in the related Indenture.

by the Owner Trustee to the Trustee and will be subject to the lien of the related Indenture.

5. In addition to the issued and sale of the Bonds, Applicants intend to sell certificates ("Certificates") evidencing ownership of a beneficial interest in each Trust to a limited number, in no event more than one hundred, sophisticated institutional investors ("Eligible Institutions") in transactions exempt from the registration requirements of the Securities Act of 1933 ("1933 Act") under section 4(2) thereof. Such Eligible Institutions may include one or more banks, savings and loan associations, insurance companies, and pension plans or other investors of the type that would have prior experience in making investments in mortgage related securities of real estate. Each Eligible Instituiton will be required to represent that it is purchasing such Certificate for investment purposes. In addition, the Trust Agreement relating to each Trust will provide that no transfer of any Certificate will be effective if, as a result of such transaction, there would be more than one hundred owners of such Certificates at that time. Notwithstanding the sale of Certificates, the Depositor will remain a wholly-owned subsidiary of CityFed Mortgage Bancorp, Inc.

6. The holders of the Certificates of any of the Trusts, the Owner Trustee and the Trustee will not be able to impair the Trustee's first-priority perfected security interest in the Mortgage Certificates for the benefit of the holders of the Bonds. That is, without the consent of each Bondholder to be affected, the holders of the Certificates of any of the Trusts, the Owner Trustee and the Trustee will not be able to: (1) Change the stated maturity on any Bonds; (2) reduce the principal amount or the rate of interest on any Bonds (or the manner of determining the rate of interest on adjustable rate Bonds); (3) change the priority of payment of any class of any Series of Bonds; (4) impair or adversely affect the Mortgage Certificates securing a Series of Bonds; (5) permit the creation of a lien ranking prior to or on a parity with the lien of the related Indenture with respect to the Mortgage Certificates; or (6) otherwise deprive the Bondholders of the security afforded by the lien of the related Indenture.

7. The sale of the Certificates in each Trust will not alter the payment of cash flows under the Indenture, including the amounts to be deposited in the collection account or any reserve fund created pursuant to the Indenture, to support payments of principal and interest on the Bonds.

8. No holder of a controlling interest in a Trust (as the term "control" is defined in Rule 405 under the 1933 Act), will be affiliated with either the custodian or the statistical rating agency rating the Bonds. None of the Certificate owners in a Trust will be affiliated with the Trustee.

9. The interests of the Bondholders will not be compromised or impaired by the ability of the Applicants to sell the Certificates and there will not be a conflict of interest between the Bondholders and the holders of Certificates for several reasons: (a) The Mortgage Certificates which will be deposited into each Trust and will be pledged to secure the Bonds issued by such Trust will not be speculative in nature because they will consist solely of GNMA Certificates, FNMA Certificates or FHLMC Certificates, which Mortgage Certificates are guaranteed as to timely payment of interest and timely or ultimate payment of principal by each respective agency; (b) the Bonds will only be issued provided an independent nationally recognized statistical rating agency has rated such Bonds in one of the two highest rating categories; (c) the Trustee will retain a first-priority perfected security interest in the collateral pledged to secure the Bonds, all income distributions thereon and all proceeds from a conversion, voluntary or involuntary, voluntary or involuntary, of any such collateral for the benefit of the Bondholders subject only, in the event of a default under the Indenture, to the Trustee's own limited prior lien to the extent of its upaid fees and expenses; [2] and (d) the owners of the Certificates will be entitled to receive current distributions representing the residual payments on the collateral from each Trust in accordance with the terms of the applicable Trust Agreement. Furthermore, unless a Trust elects to be treated as "real estate mortgage investment conduit" ("REMIC") under the Internal Revenue Code of 1986, the beneficial interest owners will be liable for the expenses, taxes and other liabilities of the Trust (other than the principal and interest on the Bonds and certain fees and expenses of the Trustee for the Bonds specified in the Indenture) to the extent not previously paid from the trust estate. The choice of the form of issuer for the collateralized mortgage obligations and the indentity of the owners of the Certificates in such issuer, however, will not alter in any way the payments made to the holders of the Bonds which are payments governed by an Indenture which will meet the requirements of the Trust Indenture Act of 1939.

10. The aggregate interests of the owners of the Certificates in the collateral and the expected returns earned by such owners will be far less than the payment made to Bondholders. Applicants of not intend to deposit in any Trust, Mortgage Certificates with a collateral value which exceeds 120% of the aggregate principal amount of the related Bonds.

11. Except to the extent permitted by the limited right to substitution described herein, it will not be possible for the owners of the Certificates to alter the Mortgage Certificates initially deposited into a Trust, and in no event will such right to substitute collateral result in a diminution in the collateral value of such Mortgage Certificates. Although it is possible that any Mortgage Certificates substituted for Mortgage Certificates initially deposited into a Trust may have a different prepayment experience than the original Mortgage Certificates, the interests of the Bondholders will not be impaired because: (a) The prepayment experience of any Mortgage Certificates will be determined by market conditions beyond the control of the owners of the Certificates, which market conditions are likely to affect all comparable Mortgage Certificates of similar payment terms and maturities in a similar fashion; (b) the interests of the holders of the Certificates are not likely to be greatly different from those of the Bondholders with respect to collateral prepayment experience; and (c) to the extent that it may be possible for the owners of the Certificates to cause the substitution of Mortgage Certificates which have a different prepayment experience than the original Mortgage Certificates, the interests of the Bondholders will not be impaired because this situation is no different for the Bondholders than the traditional collateralized mortgage obligation structure where bonds are issued by a

[2] The Indenture further specifically provides that no amounts may be released from the lien of the Indenture to be remitted to the issuing Trust (and any owner of the beneficial interests thereof) until (i) the Trustee has made the scheduled payment of principal and interest on the Bonds, (ii) the Trustee has received all fees currently owed to it, and (iii) to the extent required by any supplemental Indentures executed in connection with the issuance of the Bonds, deposits have been made to certain reserve funds which will ultimately be used to make payments of principal and interest on the Bonds. Once amounts have been released from the lien of the Indenture, the Trust Agreement for each Trust will provide that the operating expenses of the Trust be paid before the owners of the beneficial interests of the Trust will receive the remaining excess cash flow.

corporate entity through its a wholly-owned subsidiary. Further, due to the fact that there usually will be more than one owner of the Trust, it appears less likely that the owners will be able to agree on any desired substitution of collateral than if there were a single owner who could unilaterally decide on the timing and execution of the substitution.

12. For additional representations and conditions concerning classes of Bonds, certain optional and mandatory redemption features, and the application of "excess cash flow," see the application.

13. Each class of adjustable interest rate Bonds will have a set maximum interest rate (an interest rate cap).

14. At the time of the deposit of the collateral with the issuing Trust, as well as during the life of the Bonds, the scheduled payments of principal and interest to be received by the Trustee on all Mortgage Certificates pledged to secure the bonds, plus reinvestment income thereon, and funds, if any, pledged to secure the Bonds (as described in the application for the Order) will be sufficient to make all payments of principal and interest on the Bonds then outstanding, assuming the maximum interest rate on each class of adjustable interest rate Bonds. Such Mortgage Certificates will be paid down as the underlying mortgages are repaid but, subject to the limited rights of substitution described in the application, will not be released from the lien of the Indenture prior to the payment of the Bonds.

15. The election by any Trust to be treated as a REMIC will have no significant effect on the level of the expenses that would be incurred by any such Trust. Any Trust that elects to be treated as a REMIC will provide that all administrative fees and expenses in connection with the administration of the Trust will be paid or provided for in a manner satisfactory to the agency or agencies rating the Bonds. The Trust will provide for the payment of administrative fees and expenses incurred in connection with the issuance of the Bonds and the administration of the Trust by one of the following methods or a combination of one or more of such methods: (a) A third party, whose credit is acceptable to the agency or agencies rating the Bonds, the Trustee and the Owner Trustee, will guarantee the payment of such fees and expenses; (b) one or more reserve funds will be established to provide for the payment of such fees and expenses, which maximum fees typically shall be projected, assuming current inflation factor scenarios if required by the independent agency or agencies rating the Bonds, at the time of issuance of the Bonds and the establishing of such reserve funds. The procedure used to calculate the anticipated level of fees and expenses will be reasonable and has been used successfully in the past, in that it has provided available funds sufficient to pay such fees and expenses and to insure that funds will be sufficient to cover future fees and expenses of the Trustee; (c) the Bonds will be secured by collateral, the value of which is in excess of the amount necessary to make payments of principal and interest on the Bonds, and such excess or a portion thereof will be applied to the payment of such fees and expenses, and (d) the owners of the beneficial interest in any Trust will be personally liable, pursuant to the Trust Agreement, for the fees and expenses of the Trust not otherwise payable from one of the sources described above. Each Trust will insure that the anticipated level of fees and expenses will be adequately provided for regardless of which of the above methods (which methods may be used in combination) are selected by such Trust to provide for the payment of such fees and expenses.

Applicants' Legal Conclusion

1. The requested order is necessary or appropriate in the public interest because: (a) The Trusts should not be deemed to be entities to which the provisions of the 1940 Act were intended to be applied; (b) the Trust may be unable to proceed with their proposed activities if the uncertainties concerning the applicability of the 1940 Act are not removed; (c) the Trusts' activities are intended to serve a recognized and critical public need; (d) granting of the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the 1933 Act and thereafter by the Trustee representing their interests under the Indenture; and (e) the beneficial interests in the Trusts will be held entirely by the Applicants or offered only to a limited number of Eligible Institutions through private placements.

Applicants' Conditions

Applicants agree that if an order is granted it will be expressly conditioned on the following conditions:

Conditions Relating to the Bonds

(1) Each Series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration pursuant to section 4(2) of the 1933 Act.

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended. However, the primary collateral directly securing the Bonds will be limited to GNMA Certificates, FNMA Certificates, or FHLMC Certificates.

(3) If new Mortgage Certificates are substituted, the substitute collateral will: (i) Be of equal or better quality than the collateral replaced; (ii) have similar payment terms and cash flow as the collateral replaced; (iii) be insured or guaranteed to the same extent as the collateral replaced; and (iv) meet the conditions set forth in paragraphs (2) and (4). In addition, new Mortgage Certificates may not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged as collateral. In no event may any new Mortgage Certificates be substituted for any substitute Mortgage Certificates.

(4) All Mortgage Certificates, funds accounts or other collateral securing a Series of Bonds ("Collateral") will be held by a Trustee, or on behalf of a Trustee by an independent custodian. Neither the custodian nor the Trustee may be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of the Applicants. The Trustee will be provided with a first-priority perfected security or lien interest in and to all Collateral.

(5) Each Series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating agency that is not affiliated with the Applicants. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

(6) No less often than annually, an independent public accountant will audit the books and records of each Trust and, in addition, will report on whether the anticipated payments of principal and interest on the Collateral continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Trustee.

Conditions for Adjustable Rate Bonds

(7) Each Class of adjustable interest rate Bonds will have a set maximum interest rate (an interest rate cap).

(8) At the time of the deposit of the Collateral with the issuing Trust, as well as during the life of the Bonds, the

scheduled payments of principal and interest to be received by the Trustee on all Mortgage Certificates pledged to secure the Bonds, plus reinvestment income thereon, and funds, if any, pledged to secure the Bonds (as described in the application for the Order) will be sufficient to make all payments of principal and interest on the Bonds then outstanding, assuming the maximum interest rate on each class of adjustable interest rate Bonds. Such Mortgage Certificates will be paid down as the underlying mortgages are repaid, but subject to the limited rights to substitute Mortgage Certificates described in the application, will not be released from the lien of the Indenture prior to payment of the Bonds.

Conditions for REMICs

(9). The election by any Trust to be treated as a REMIC will have no material effect on the level of the expenses that would be incurred by any such Trust. Any Trust that elects to be treated as a REMIC will provide that all administrative fees and expenses in connection with the administration of the Trust will paid or provided for in a manner satisfactory to the agency or agencies rating the Bonds. The Trusts will provide for the payment of administrative fees and expenses incurred in connnection with the issuance of the Bonds and the administration of the Trust by one of the following methods or a combination of one or more of such methods: (a) A third party, whose credit is acceptable to the agency or agencies rating the Bonds, the Trustee and the Owner Trustee, will guarantee the payment of such fees and expenses; (b) One or more reserve funds will be established to provide for the payment of such fees and expenses, which maximum fees typically shall be projected, assuming current inflation factor scenarios if required by the independent agency or agencies rating the Bonds, at the time of the issuance of the Bonds and the establishing of such reserve funds. The procedure used to calculate the anticipated level of fees and expenses will be reasonable and has been used successfully in the past, in that it has provided available funds sufficient to pay such fees and expenses and to insure that funds will be sufficient to cover future fees and expenses of the Trustee; (c) The bonds will be secured by collateral, the value of which is in excess of the amount necesary to make payments of principal and interest on the Bonds and such excess or a portion thereof will be applied to the payment of such fees and expenses; and (d) The owners of the beneficial interest in any Trust will be personally liable, pursuant to the Trust Agreement, for the fees and expenses of the Trust not otherwise payable from one of the sources described above. Each Trust will insure that the anticipated level of fees and expenses will be adequately provided for regardless of which or all of the above methods (which methods may be used in combination) are selected by such Trust to provide for the payment of such fees and expenses.

Conditions for Sale of Beneficial Interests

(10) In addition, Applicants agree that the above representations regarding the beneficial interests may be made express conditions to the requested order.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13790 Filed 6-16-87; 8:45 am

BILLING CODE 8010-01-M

[Release No. IC-15793 ; (812-6637)]

First Boston Mortgage Securities Corp.; Notice of Application

June 10, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Amended Order under the Investment Company Act of 1940 (the "1940 Act").

Applicant: First Boston Mortgage Securities Corp. ("Applicant").

Relevant 1940 Act Sections: Exemption is requested under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks an order amending an existing Order (Investment Company Act Release No. 15416, November 17, 1986) (the "Order") that exempted certain trusts created by the Applicant from all provisions of the 1940 Act, to permit the issuance of variable rate Bonds, the election of REMIC status and the sale of beneficial interests in such trusts.

Filing Date: The application was filed on February 24, 1987 and amended on May 18, 1987. A second amendment, the substance of which is included herein, will be filed during the notice period.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on July 1, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 4911 InterFirst Two, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Staff Attorney, (202) 272-3046, or Curtis Hilliard, Special Counsel, (202) 272-3026 (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, a Delaware corporation organized in December 1985, is wholly-owned by First Boston Securities Corporation ("FBSC"), which is a wholly-owned subsidiary of First Boston, Inc., a holding company, which, primarily through its wholly-owned subsidiary The First Boston Corporation, a broker-dealer in securities, provides a full range of investment banking and related financial services. Applicant is a limited-purpose corporation incorporated to facilitate the financing of mortgages through certain specified activities, including the formation of one or more trusts (each, a "Trust"), each of which will issue one or more series (each, a "Series") of collaterilized mortgage obligations ("Bonds").

2. Each Trust will be created under the laws of one of the States of the United States of America pursuant to an agreement (a "Trust Agreement") between Applicant, acting as settlor, depositor and sole beneficial owner, and an independent bank, trust company or other fiduciary acting as owner trustee (the "Owner Trustee"). This request for an order does not apply to any Trust which will have issued Bonds prior to the granting of this order.

3. Once a Trust has issued all the Series to be issued by such Trust, the Applicant may sell some or all of the beneficial interest in such Trust ("Trust Certificates") to one or more mortgage lenders, thrift institutions, commercial and investment banks, savings and loan

associations, pension funds, employee benefit plans, insurance companies, real estate investment trusts or other institutions which customarily engage in the purchase of mortgages or other mortgage collateral (such entities being referred to herein as "Eligible Institutions" or "Owners"). The Owner Trustee will not purchase any Trust Certificates itself, but will function as a legal stakeholder for the Owners of the related Trusts.

4. The Owner Trustee is expected to be Wilmington Trust Company, a bank and trust company organized under the laws of the State of Delaware. Wilmington Trust Company has entered into Trust Agreements with Applicant providing for the establishment of several Trusts. The Trust Agreements contemplate that the Owner Trustee will enter into a Bond Administration Agreement with respect to each such Trust, whereby First Boston Asset Management Corporation, a New York corporation and an affiliate of the Applicant will provide certain management services in connection with the issuance of the Bonds, including the preparation of certain orders to the Bond Trustee in connection with the release of funds from the lien of the Indenture, the appointment or removal of accountants, the Bond Trustee, or other agents, the delivery of certain opinions of counsel and officer's certificates in connection with the issuance of the Bonds and the preparation of certain periodic reports to government agencies.

5. Each Trust will issue one or more Series of Bonds, pursuant to an Indenture (each, an "Indenture") between the Trust and a commercial bank acting as trustee (the "Bond Trustee") for the holders of the Bonds (the "Bondholders"). Each Indenture will be subject to the provisions of the Trust Indenture Act of 1939 or appropriately exempt therefrom.

6. The Bonds will be secured by mortgage certificates consisting of any combination of "fully modified pass-through" mortgage-backed certificates fully guaranteed as to principal and interest by GNMA; Mortgage Participation Certificates issued by FHLMC; Guaranteed Mortgage Pass-Through Certificates issued by FNMA; Stripped Mortgage Backed Securities issued by GNMA, FHLMC or FNMA; and stripped mortgage backed securities issued by the Applicant ("SPLITS") [1] (collectively, "Mortgage Certificates"). In addition to the Mortgage Certificates, the Bonds may be secured by additional collateral which may include reinvestment earnings and distributions on the Mortgage Certificates and certain collection accounts and reserve funds as specified in the related Indenture.

7. The Mortgage Certificates that initially secure a Series of Bonds will have an aggregate "Collateral Value" (as defined in the related Indenture) at least equal to the principal balance of such Bonds. The Trust will pledge to the Bond Trustee as security for the Bonds its entire right, title and interest in the Mortgage Certificates securing such Series. The Mortgage Certificates will be held by the Bond Trustee or on behalf of the Bond Trustee by an independent custodian which will not be an affiliate of the Applicant or the Owner Trustee.

8. Bonds of a Series may bear interest at fixed rates or at rates which vary in relation to an index specified in the related prospectus. Bonds bearing interest at a variable rate will be subject to maximum interest rates ("interest rate caps") or to minimum interest rates in the case of inverse variable rate Bonds. The maximum and minimum interest rates may vary from period to period, and always will be specified in the prospectus. The cash flow generated by the related Mortgage Certificates securing the Bonds (together with other Collateral) plus income received thereon at the assumed reinvestment rate specified in the related prospectus will be sufficient to provide for the full and timely payment of the Bonds of such series (even if the interest rates on variable rate Bonds were the maximum applicable interest rates for each specified period).

9. In the case of a Series of Bonds that contains a class or classes of variable rate Bonds, a number of mechanisms exist to ensure that the above representations will be valid notwithstanding subsequent potential increases in the interest rate applicable to the variable rate Bonds. Procedures that have been identified to date for achieving this result include the use of (i) interest rate caps for the variable rate Bonds; (ii) "inverse" variable rate Bonds (which pay a lower rate of interest as the rate increases on the corresponding "normal" variable rate Bonds); (iii) variable rate collateral to secure the Bonds; (iv) interest rate swap agreements (under which the issuer of the Bonds would make periodic payments to a counterparty at a fixed rate of interest based on a stated principal amount, such as the principal amount of Bonds in the variable rate class, in exchange for receiving corresponding periodic payments from the counterparty at a variable rate of interest based on the same principal amount) and (v) hedge agreements (including interest rate futures and option contracts, under which the issuer of the Bonds would realize gains during periods of rising interest rates sufficient to cover the higher interest payments that would become due during such periods on the variable rate class of Bonds). It is expected that other mechanisms may be identified in the future. Applicant will give the Commission notice by letter of any such additional mechanisms before they are utilized, in order to give the Commission an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to meet the standards required for a rating of the Bonds in one of the two highest bond rating categories, and no Bonds will be issued for which this is not the case.

10. A Trust may have, as to certain Series of Bonds, a limited right to substitute new Mortgage Certificates for Mortgage Certificates initially pledged as security for such Series of Bonds, provided that such substitution does not result in a reduction of the ratings assigned to such Series of Bonds by the nationally recognized rating agency or agencies rating such Series.

11. Except to the extent permitted by the limited right to substitute collateral it will not be possible for the Owners of Trust Certificates to alter the initial Mortgage Certificates relating to a Series. Although it is possible that substitute Mortgage Certificates may have a different payment experience than the replaced Mortgage Certificates, the interests of the Bondholders will not be impaired because: (a) Such prepayment experience of any collateral will be determined by market conditions

[1] SPLITS issued by the Applicant are similar to Stripped Mortgage Backed Securities issued by GNMA, FHLMC and FNMA in the SPLITS are issued in series of two or more classes, with each class representing a specified undivided fractional interest in principal distributions and/or interest distributions on the underlying pool of assets, and the fractional interest of each class are not identical but in the aggregate represent 100% of the principal and interest distributions on the particular pool. In addition, each series of SPLITS (a) will be rated in one of the two highest rating categories by at least one nationally recognized statistical rating agency, (b) will represent an underlying pool of assets consisting entirely of "fully-modified, pass-through" mortgage-backed certificates fully guaranteed by GNMA, Mortgage Participation Certificates issued by FHLMC or Guaranteed Mortgage Pass-Through Certificates issued by FNMA and (c) will be "mortgage related securities" within the meaning of Section 3(a)(41) of the Securities Exchange Act of 1934, as amended. Use of SPLITS as collateral for Bonds will not reduce the security afforded to Bondholders nor expose them to a level of risk significantly different from the present in a Series of Bonds directly secured by the certificates guaranteed by FNMA, GNMA or FHLMC in which the SPLITS represent an interest.

beyond the control of the Owners of the Trust Certificates, which market conditions are likely to affect all Mortgage Certificates of similar payment terms and maturities in a similar fashion; (b) the interests of the Owners of the Trust Certificates will not be different from those of the Bondholders with respect to such prepayment experience, since both the Owners and the Bondholders will have purchased their respective interests based on the same assumption of prepayment experience of the related Mortgage Certificates; and (c) to the extent that Owners of Trust Certificates may substitute Mortgage Certificates which may have a different prepayment experience than the original Mortgage Certificates, this situation is no different for the Bondholders than the situation in traditional collateralized mortgage obligation structures.

12. Without the consent of each Bondholder to be affected, neither any of the Trusts nor the Bond Trustee will be able to: (1) Change the stated maturity on any Bonds; (2) reduce the principal amount of, or the rate of interest on any fixed rate Bonds or alter the method of determining the interest on any variable rate Bonds; (3) change the priority of repayment on any class of any Series of Bonds; (4) impair or adversely affect the Mortgage Certificates securing a Series of Bonds; (5) permit the creation of lien ranking prior to or on parity with the lien of the related Indenture with respect to the Mortgage Certificates; or (6) otherwise deprive the Bondholders of the security afforded by lien of the related Indenture. The sale of Trust Certificates will not alter the payment of cash flows to Bondholders, nor affected the amounts required to be deposited in the collection account or any related reserve funds.

Conditions To Order

Applicant expressly agrees that the proposed transactions will conform to the following conditions:

A. Conditions relating to the Bond Collateral

1. Each Series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration either pursuant to section 4(2) of the 1933 Act or because such Series of Bonds is offered and sold outside the United States to non-U.S. persons in reliance upon an opinion of U.S. counsel that registration is not required. No single offering of Bonds both within and outside the United States will be made without registration of all such Bonds under the 1933 Act without obtaining a no-action letter permitting such offering or otherwise complying with applicable standards then governing such offerings. In all cases, Applicant will adopt agreements and procedures reasonably designed to prevent the Bonds from being offered or sold in the United States or to U.S. persons (except as U.S. counsel may then advise is permissible). Disclosure provided to purchasers located outside the United States will be substantiallly the same as that provided to U.S. investors in United States offerings.

2. The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended, and the collateral directly securing the Bonds will be limited to mortgage pass-through certificates, including Stripped Mortgage Backed Securities, guaranteed by GNMA or issued and guaranteed by FNMA or FHLMC and SPLITs.

3. If new Mortgage Certificates are substituted for Mortgage Certificates initially pledged as security for a Series of Bonds, the substitute Mortgage Certificates must: (i) Be of equal or better quality than those replaced; (ii) have similar payment terms and cash flow as those replaced; (iii) be insured or guaranteed to the same extent as the collateral replaced; and (iv) meet the conditions set forth in paragraphs (2) and (4). In addition, new Mortgage Certificates may not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged. In no event may any new Mortgage Certificates be substituted for any substitute Mortgage Certificates.

4. The Collateral will be held by the Bond Trustee or on behalf of the Bond Trustee by an independent custodian. Neither the custodian nor the Bond Trustee will be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of Applicant. The Bond Trustee will be provided with a first priority perfected security or lien interest in and to all Collateral.

5. Each Series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating agency that is not affiliated with Applicant. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

6. So long as applicable law requires, no less often than annually, an independent public account will audit the books and records of each Trust. In addition, as long as any Bonds of a Series are outstanding, on the basis of a review of the Collateral the independent accountant will report at least annually on whether the anticipated payments of principal and interest on the Collateral for each such Series continue to be adequate to pay the principal of and interest on the related Bonds in accordance with their terms. All accountant's reports with respect to payments on the Bonds will be provided to the Bond Trustee.

B. Conditions relating to REMICs

The election by a Trust to be treated as a REMIC will have no effect on the level of expenses that will be incurred by such Trust. Any Trust that elects to be treated as a REMIC will provide for the timely payment of all anticipated fees and expenses to be incurred in connection with the administration of the Trust in a manner satisfactory to the agency or agencies that initially rate the Bonds. Either the Owners of the Trust Certificates of any Trust will be personally liable pursuant to the Trust Agreement for such fees and expenses, or payment of such fees and expenses will be provided for by one or more of the methods or any combination thereof described in the application.

C. Conditions relating to variable rate Bonds

1. Each class of variable rate Bonds will have set maximum interest rates (interest rate caps) which may vary from period to period as specified in the related prospectus.

2. The Collateral pledged to secure the Bonds will be sufficient to provide for the full and timely payment of the Bonds then outstanding, assuming the maximum applicable interest rates for each specified period on variable rate Bonds. Such Collateral will not be released from the lien of the Indenture prior to the payment of the Bonds (except pursuant to condition A.3. above).

D. Conditions relating to the sale of Equity Interests

1. The Owners of the Trust Certificates will agree to be bound by the terms of the applicable Trust Agreement.

2. Trust Certificates will be offered and sold only to one or more Eligible Institutions.

3. Each sale of Trust Certificates to an Eligible Institution will qualify as a transaction not involving a public offering within the meaning of section 4(2) of the 1933 Act.

4. Initially, Applicant intends to sell the Trust Certificates of each Trust to no

more than twenty-five Eligible Institutions. In no event will Applicant sell to more than 100 Eligible Institutions. The Trust Agreement relating to each Trust will prohibit the transfer of any Trust Certificate of such Trust if there would be more than one hundred beneficial owners of such Trust Certificates at any time.

5. Each purchaser of a Trust Certificate will represent that it is purchasing the Trust Certificate for investment purposes only and that it will hold such Trust Certificate in its own name and not as nominee for undisclosed investors.

6. No owner of a Trust Certificate will be affiliated with the Bond Trustee; no holders of a controlling (as that term is defined in Rule 405 under the 1933 Act) equity interest in the Trust will be affiliated with either the custodian of the Bond Collateral or the rating agency rating the Bonds; and the Owner Trustee will not purchase any Trust Certificate but will function as a legal stakeholder for the assets of the Trust.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-13791 Filed 6-16-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15794; (812-6541)]

Templeton/Taft Philanthropic Trust; Notice of Application

June 10, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicant: Templeton/Taft Philanthropic Trust ("Applicant" or the "Fund").

Relevant sections of Act: Exemption requested under Section 6(c) of the 1940 Act, from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the 1940 Act and Rules 22c-1 and 22d-1 thereunder.

Summary of application: Applicant seeks an order to permit it to assess a contingent deferred sales charge on redemptions of its shares and to provide a pro rata credit for such charges paid upon certain reinvestments.

Filing date: The application was filed on November 20, 1986, and amended on April 8, and June 8, 1987.

Hearing or notification of hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 P.M., on July 1, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Applicant, 11150 Sunset Hills Road, Suite 240, Reston, Virginia 22090.

FOR FURTHER INFORMATION CONTACT: Fran Pollack, Staff Attorney (202) 272-3024, or Karen L. Skidmore, Special Counsel (202) 272-3023, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from either the Commission's Public Reference Branch in person or the Commission's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is an open-end diversified management investment company organized as a business trust under the laws of the Commonwealth of Massachusetts on October 31, 1986. The Applicant's investment objective is long-term capital growth, which it will seek by investing in common stocks and all types of common stock equivalents, including rights, warrants and preferred stock, of companies of any nation throughout the world. The Applicant is designed for non-profit institutional investors, such as charitable organizations, colleges, universities, foundations, and religious and educational endowments. Although the Applicant currently consists of one series of shares and has no current intention to create and issue additional series, it requests that the proposed exemptive relief extend to its initial series of shares and any additional series or classes of shares of Applicant that may at any time hereafter be offered on substantially the same basis.

2. Mutual funds sold with a sales charge traditionally have imposed a "front-end" sales charge, so that purchase payments are invested after the deduction of the applicable sales charge. The Applicant proposes to offer its shares at net asset value without a front-end sales charge so that shareholders will have the entire amount of their purchase payments invested when made. However, the Applicant also proposes to impose a 1.0% contingent deferred sales charge ("CDSC") on the proceeds of certain redemptions of the Fund's shares, and to pay such amounts to its principal underwriter, Non-Profit Marketing Corporation of America (the Distributor"). The minimum initial investment will be $1,000,000; the minimum subsequent investment will be $100,000.

3. The CDSC would generally be imposed if a shareholder redeems Fund shares within three years of purchasing such shares. However, no sales charge would be imposed on redemptions of amounts representing the following: (1) Increases in the value of the shareholder's account due to appreciation in net asset value per share, (2) shares acquired with reinvested dividends or capital gains distributions, and (3) shares that were purchased more than three years before they are redeemed.

4. In determining whether a CDSC applies to a particular redemption, shares purchased more than three years before redemption and shares issued upon reinvestment of capital gains distributions and dividends will be redeemed first. If these shares are insufficient to cover the number of shares to be redeemed, shares having a net asset value equal to the appreciation in value of shares purchased during the preceding three years will be redeemed next. Any shares to be redeemed that exceed the total number of shares (i) purchased more than three years previously, (ii) attributable to reinvestment, or (iii) having a net asset value equal to appreciation in shares purchased during the preceding three years, will be subject to the CDSC. This charge will be applied to the net asset value of shares redeemed which are subject to the change. The amount of the CDSC will depend on the number of years since the shareholder purchased shares and the aggregate cost of shares purchased in each year. The CDSC will be 1.0% in the first three years following the date of purchase and thereafter will drop to zero. In determining that amount of the CDSC, the amount of dollars redeemed will be charged against the aggregate cost of shares purchased in each year (to the extent not previously subject to a charge), beginning with the oldest first. This will result in the shareholder paying the lowest possible CDSC rate.

5. In addition to the CDSC, the Applicant proposes to finance

distribution expenses under a distribution plan adopted pursuant to Rule 12b–1 under the 1940 Act ("Plan"). Under the Plan, the Fund will reimburse the Distributor monthly for its distribution expenses in an amount up to 0.55% of the Fund's average daily net assets, including payments made by the Distributor: (i) to selected dealers (including the Distributor) with respect to sales of shares and (ii) for expenses incurred in promoting the sale of shares, such as printing and advertising. The Distributor may pay to selected dealers (including the Distributor) a commission of up to 0.25% of the initial purchase price of shares of the Fund, plus an annual commission of up to 0.25% of amounts retained in the Fund. In their review of the Rule 12b–1 distribution plan, the Trustees of the Fund will consider the use by the Distributor of revenues raised by the CDSC, and will make certain that the Plan complies with Rule 12b–1, both as it is currently written and as may be notified in the future.

6. The Applicant will provide a pro rata credit for any CDSC paid in connection with redemption of any shares of the Fund followed by a reinvestment effected withing 30 days after such redemption. A shareholder may exercise this privilege only once. The Applicant submits that it will comply fully with Rule 22d–1 with respect to this privilege.

Applicant's Legal Conclusions

1. The Applicant submits that the exemptions it requests are fair and in the public interest, consistent with the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the 1940 Act. The Applicant submits that the proposed sales charge is fair and in the best interests of shareholders because it permits shareholders to have the advantage of greater investment dollars working for them from the time of a purchase of the Applicant's shares.

2. The imposition of the CDSC would not cause shares of the Fund to fall outside the definition of "redeemable securit[ies]" in section 2(a)(32) of the 1940 Act and the Applicant, therefore, would qualify as an open-end investment company under section 5(a)(1) of the 1940 Act.

3. The proposed CDSC is consistent with the intent of the definition of "sales load" contained in section 2(a)(35) of the 1940 Act. This arrangement is within the section 2(a)(35) definition of "sales load," but for the timing of the imposition of the charge. The Applicant maintains that the deferral of the sales charge, and its contingency upon an event that might not occur, does not change the basic nature of this charge, which is in every other respect a sales charge.

4. The implementation of the proposed CDSC is in no way violative of section 22(c) of the 1940 Act or Rule 22c–1 thereunder. When a redemption of the Applicant's shares is effected, the price of the shares on redemptions would be based on current net asset value, and the CDSC would merely be deducted from the redemption proceeds at the time of redemption in arriving at the shareholder's net proceeds payable on redemption.

5. Permitting the Applicant to provide a pro rata credit for any CDSC paid in connection with redemptions of any shares of the Applicant, followed by reinvestment effected within 30 days after such redemption, is fully consistent with the scope of reduced or waived sales charges permitted under Rule 22d–1.

Applicant's conditions: If the proposed order is granted, Applicant agrees to the following condition being attached to the order:

1. In their periodic review of the Plan, the Fund's Trustees will consider the use by the Distributor of revenues raised by the CDSC. As a result, in their annual review of the Plan, the Trustees shall consider the interrelationship of the CDSC and the distribution fee and make whatever revision in either as they deem appropriate. Furthermore, the Trustees will make certain that the Plan complies with Rule 12b–1 both as it is currently written and as that Rule may be modified in the future.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–13792 Filed 6–16–87; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted within 30 days of this publication in the **Federal Register.** If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewers and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency clearance officer: William Cline, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC., 20416, Telephone: (202) 653–8538

OMB REVIEWER: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC. 20503, Telephone: (202) 395–7340

Title: License Application, Personal History and Qualification of Management.

Form No.: SBA 415, 415A.

Frequency: Occasion.

Description of Respondents: Investment companies provide SBA with the necessary data to make a judgment as to whether the applicant will conduct itself and provide the financing to small business as intended by the Act.

Annual Responses: 80.

Annual Burden Hours: 6,400.

Type of Request: Extension.

Title: Request for Information Concerning Portfolio Financing.

Form No.: SBA 857.

Frequency: Annually.

Description of Respondents: An independent confirmation by the financed small concern of the licensee's financing with provision for any comments by the small concern.

Annual Responses: 2,160.

Annual Burden Hours: 2,160.

Type of Request: Extension.

Title: Financial Institution Confirmation.

Form No.: SBA 860.

Frequency: Annually.

Description of Respondents: A confirmation by bank or other depository of licensee activity.

Annual Responses: 1,500.

Annual Burden Hours: 750.

Type of Request: Extension.

William Cline,

Chief, Administrative Information Branch, Small Business Administration.

[FR Doc. 87–13835 Filed 6–16–87; 8:45 am]

BILLING CODE 8025–01–M

[License No. 09/09-5375]

Bentley Capital; Application for License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to the Regulations governing small business investment companies (13 C.F.R. 107.102 (1987)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et. seq.), and the Rules and Regulations promulgated thereunder.

Applicant: Bentley Capital, 592 Vallejo Street, Suite #2, San Francisco, California 94133.

The proposed officers, directors, General Manager, and shareholders of the Applicant are as follows:

Name	Position	Percent of ownership
John Hung, 233 Chestnut Street, San Francisco, CA 94123.	President/ Director.	45%
Elizabeth C. Ellis, 121 Castleton Way, San Bruno, CA 94066.	Vice President/ General Manager.	0
Lap—Chung Chan, 3955 Kent Way, San Francisco, CA 94080.	Vice President/ Director.	0
Louis Leong, 760 Stewart Hue, Daly City, CA 94105.	Assistant Vice President/ Director.	0
Frank Hung, 2533 Chestnut St., San Francisco, CA 94123.	Shareholder	11%
Agnes Hung, 2533 Chestnut St., San Francisco, CA 94123.	Shareholder	44%

The Applicant will begin operations with a capitalization of $1,490,000 and will be a source of equity capital and long term loan funds for qualified small business concerns.

The Applicant will conduct its operations in the State of California.

As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act and will provide assistance solely to small concerns which will contribute to a well balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of the Notice will be published in a newspaper of general circulation in San Francisco.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 11, 1987

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-13836 Filed 6-16-87; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-0347]

Macom Financial Corp.; Application for a Small Business Investment Company License

An application for a license to operate a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, *et seq.*) has been filed by Macom Financial Corporation (Macom) 303 Sacramento Street, Suite 400, San Francisco, California 94111, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1987).

The officers, directors, and shareholders of the Applicant are as follows:

Name	Title or relationship	Percentage of shares owned
Michael Y.K. Tam, No. 6, Jalan 2, Taman, Si Ukay, Ulu, Klang 68000 Selangor, Malaysia.	Director	100% of Class A Shares (approximately 98% of total)
Fred B. Weil, One California Street, Suite 1400, San Francisco, CA 94111.	Director and Secretary.	25% of Class B Shares (approximately .5% of total)
Lip-Bu Tan, 303 Sacramento Street, Suite 303, San Francisco, CA 94111.	Director, President, Chief Executive Officer, and Chief Financial Officer.	75% of Class B Shares (approximately 1.5% of total)
William Ong, 865 Cabot Court, San Carlos, CA 94070.	General Manager	

The Applicant, Macom, a California Corporation, will begin operations with $1,025,949 paid in capital and paid in surplus. Macom will conduct its activities primarily in the State of California but will consider investments in businesses in other areas in the United States.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of the Notice will be published in a newspaper of general circulation in San Francisco, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 11, 1987.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-13837 Filed 6-16-87; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0365]

VK Capital Co.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that VK Capital Company (VK), 50 California Street, Suite 2350, San Francisco, California 94111, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to Section 107.903(b) of the Regulations governing small business investment companies (13 CFR 107.903 (1985)) for an exemption from the provisions of the cited Regulation.

Subject to SBA approval, VK proposes to provide funds to Slautterback Corporation, 1663 Catalina Street, Sand City, California 93955 for working capital use.

The proposed financing is brought

within the purview of Section 107.903(b) of the Regulations because Mr. Bernard M. Goldsmith, a general partner of VK, is a former member of the Board of Directors of Slautterback Corportation and therefore Slautterback Corporation is considered an Associate of VK as defined by section 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than (15) days from the date of publication of this Notice, submit written comments on the propsed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in the Sand City area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 3, 1987.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-13838 Filed 6-16-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-87-12]

Petition for Exemption; Summary and Disposition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: July 7, 1987.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on June 11, 1987.

Leonard R. Smith,

Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
25274	Weyerhaeuser Co.	14 CFR 135.169(a)	To allow petitioner to operate certain aircraft without complying with the seat cushion flammability standards of § 25.853.
24093	Albuquerque International Balloon Fiesta, Inc.	14 CFR 61.3(b) and 91.27	To allow pilots and their balloons to fly in the 16th Annual Albuquerque International Balloon Fiesta without complying with pilot certificates and airworthiness requirements.
25198	Michael P. Wright	14 CFR 65.91(c)(2)	To Allow petitioner to obtain an inspection authorization without having been actively engaged, for at least the 2-year period before the date the petitioner applies, in maintaining aircraft certificated and maintained in accordance with the requirements of the FAR.
24440	American Flyers	14 CFR 141.91(a)	To allow petitioner to use its Cleveland facility as a satellite base with pilot ground school only.
25242	Experimental Aircraft Association	14 CFR 61.58	To allow pilots who are members of the petitioner and who have successfully completed the FAA accepted training program, within the preceding 12 months, to act as pilot in command of an aircraft that is type certificated for more than one required pilot crewmember, without having completed a pilot proficiency check administered by an FAA inspector or pilot proficiency examiner as required.
25243	Executive Air Fleet Corporation	14 CFR 135.169	To allow petitioner to continue to operate certain large aircraft without complying with the seat cushion flammability standards of § 25.853.
25197	Crew Concepts, Inc.	14 CFR 135.429(c) and 135.411(a)(2)	To allow petitioner to operate its Bell 205/212 series helicopters without performing certain aircraft modifications and without complying with certain performance, operations, and maintenance requirements.
25259	American Airlines	14 CFR 121.411 and 121.413	To allow petitioner to utilize Aeroformation, Toulouse, France, instructors without appropriate U.S. certificates and ratings, to conduct training for a limited number of its A300-600 crews.
23800	Simulator Training, Inc.	14 CFR 61.63(d)(2) and (d)(3), 61.157(d)(1), and 121.407(c)(1) and Appendix A to Part 61.	To allow certain practical test maneuvers and procedures to be performed in petitioner's Lockheed Electra L-188 training device in lieu of a nonvisual simulator as stipulated in Appendix A to Part 61, and extend the termination date of Exemption No. 4295, as amended, to December 31, 1987.
25249	American Airlines	14 CFR 43.3	To allow petitioner's flight attendants to replace passengers' reading light bulbs in flight on its DC9-82 aircraft.
25279	Nordstrom	14 CFR 135.169(a)	To allow petitioner to operate certain aircraft without complying with the seat cushion flammability standards of § 25.853.
25233	Alaska Air Carriers Association	14 CFR 43.3(g)	To allow the pilots employed by the Alaska Air Carriers Association member air carriers to perform the preventive maintenance function of removing and/or replacing the passenger seats of aircraft used in FAR Part 135 operations. *Granted, May 30, 1987.*
25153	Pan American World Airways, Inc.	14 CFR 121.371(a) and 121.378	To allow maintenance or repair of petitioner leased CF6 engines and components at the MTU Maintenance GmbH facility at Langenhagen, Germany. *Granted, May 29, 1987.*
25056	Mesabe Aviation, Inc.	14 CFR 121.371(a) and 121.378	To allow petitioner to use, on its Netherlands-built Fokker F-27 aircraft, certain engines, components, and spare parts that have been manufactured, repaired, overhauled, or inspected by persons outside of the United States who do not hold U.S. airman certificates. *Granted, May 29, 1987.*

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
25103	Air Wisconsin	14 CFR 121.371(a) and 121.378	To allow petitioner to use on its British Aerospace, Fokker, and Short Brothers, Ltd. aircraft certain engines, components, and spare parts that have been manufactured, overhauled, repaired, tested, or inspected by persons outside the United States who do not hold U.S. airman certificates. *Granted, May 29, 1987.*

[FR Doc. 87-13820 Filed 6-16-87; 8:45 am]
BILLING CODE 4910-13-M

Air Traffic Procedures Advisory Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) Air Traffic Procedures Advisory Committee (ATPAC) to be held from July 14, at 9 a.m., through July 17, 1987, at 11:30 a.m., at the Bishop Henry Whipple Federal Building, Conference Room 571, Minneapolis-St. Paul International Airport, Minneapolis, MN.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of minutes.
2. Discussion of agenda items.
3. Discussion of urgent priority items.
4. Report from Executive Director.
5. Old Business.
6. New Business.
7. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify, not later than July 10, 1987, Mr. Walter H. Mitchell, Executive Director, ATPAC, Air Traffic Operatons Service, 800 Independence Avenue SE., Washington, DC 20591, telephone (202) 267-9358. Information may be obtained from the same source.

The next quarterly meeting of the FAA ATPAC is planned to be held from October 19 through October 23, 1987, at FAA headquarters, 800 Independence Avenue SW., Washington, DC.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on June 10, 1987.

Walter H. Mitchell,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 87-13821 Filed 6-16-87; 8:45 am]
BILLING CODE 4910-13-M

Federal Railroad Administration

[HS-86-15, HS-86-16, and HS-86-17]

Union Pacific Railroad et al; Postponement of Public Hearings

The public hearing scheduled for 10 a.m. on June 23, 1987, in the Market Street Room of the Salt Lake Hilton at 150 West 500 South in Salt Lake City, Utah, has been postponed until 10 a.m. on July 28, 1987. This hearing will convene in Salt Lake City at the location listed above.

The second public hearing scheduled for 10 a.m. on June 25, 1987, in Room 140 of the Federal Building at 601 E. 12th Street in Kansas City, Missouri, has been postponed until 10 a.m. on July 30, 1987. This hearing will convene in Kansas City at the location listed above.

In the application that will be the subject of this hearing, the Union Pacific Railroad, Missouri Pacific Railroad, Western Pacific Railroad, have petitioned the Federal Railroad Administration (FRA) for relief from the requirements of § 228.9 of the Hours of Services of Railroad Employees.

FRA regrets any inconvenience caused by the postponement of these hearings.

Issued in Washington, DC, on June 10, 1987.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 87-13777 Filed 6-16-87; 8:45 am]
BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

[Docket No. IP 87-07]

Porsche Cars North America, Inc.; Receipt of Petition for Determination of Inconsequential Noncompliance

Porsche Cars North America, Inc., of Reno, Nevada, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*), for an apparent noncompliance with 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment,* on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraphs S4.1.1.36(a) (2) and (3) of Federal Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment,* require that the lens of each replaceable bulb headlamp have three pads which meet the requirements of dimensional specifications for location of aiming pads on replaceable bulb headlamp units. Unless the most forward aiming pad is the lower inboard aiming pad, a whole number, which represents the distance in tenths of an inch from the aiming reference plane to the respective aiming pads which are not in contact with that plane, shall be inscribed adjacent to each respective aiming pad on the lens.

In June of 1986, Porsche installed approximately 115 sets of replaceable headlamps, manufactured by Robert Bosch, on its 1987 model 928S-4. These headlamps do not comply with S.4.1.1.36 (a) and (b) of FMVSS No. 108, because they lacked the dimensions for the aiming pads. Porsche also received 35 sets of noncompliant headlamps as spare parts, of which approximately 23 sets were sold. The remaining 12 sets were returned to Robert Bosch.

Porsche support its petition with the following:

1. The Porsche 928S-4 uses headlamps which are oriented vertically and there is no tendency for any aerodynamic inclination. Any experienced mechanic can tell by a physical examination of the headlamp that it does not require aerodynamic positioning.
2. The headlamps without the aiming pad inscription are not likely to be misaimed because these lamps are vertically positioned. Mechanics will aim them in the same way they aim sealed beam headlamps, without pulling out the indexing legs on the

aerodynamic headlamp adapters. Therefore these headlamps will be properly aimed even without the dimensions for the aiming pads inscribed on the lens.

3. * * * all Porsche dealers will be advised soon by letter of the dimensions for the aiming pads. A copy of the letter will be submitted to NHTSA when it is prepared.

4. All other required markings are inscribed on the lens.

Interested persons are invited to submit written data, views and arguments on the petition of Porsche Cars North America, Inc., described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: July 17, 1987.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: June 11, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87-13778 Filed 6-16-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: June 11, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB number: New.
Form number: 1099-S.
Type of review: New Collection.
Title: Statement for Recipients of Proceeds from Real Estate Transactions.
Description: Form 1099-S is used by the person treated as the real estate broker to report proceeds from a real estate transaction to IRS.
Respondents: Individuals, Businesses.
Estimated burden: 323,373 hours.
OMB number: New.
Form number: 8615.
Type of review: New Collection.
Title: Computation of Tax for Children Under Age 14 Who Have More Than $1,000 of Unearned Income.
Description: Under section 1(i), children under age 14 who have unearned income may be taxed on part of that income at their parent's tax rate. Form 8615 is used to see if any of the child's unearned income is taxed at the parent's rate and, if so, to figure the child's tax on his or her unearned income and earned income, if any.
Respondents: Individuals.
Estimated Burden: 584,325 hours.
OMB number: 1545-0795.
Form number: 8233.
Type of review: Revision.
Title: Exemption From Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual.
Description: Compensation paid to nonresident alien (NRA) independent contractors is generally subject to 30% withholding. NRA employees may be subject to 30% withholding or graduated rates. However, such compensation may be exempt from withholding because of a U.S. tax treaty or personal exemption amount. Form 8233 is used to request exemption. Withholding agent reviews the form and accepts it or not.
Respondents: Individuals, Businesses, Non-profit institutions
Estimated burden: 4,942 hours.
OMB number: 1545-0902.
Form numbers: 8288 and 8288-A.
Type of review: Extension.
Title: U.S. Withholding Tax Return and Statement of Withholding on Disposition by Foreign Persons of U.S. Real Property Interests.
Description: Form 8288 is used by the withholding agent to report and transmit the withholding to IRS. Form 8288-A is used to validate the withholding and to return a copy to the transferee for his/her use in filing a tax return.
Respondents: Individuals, Businesses.
Estimated burden: 38,001 hours.
OMB number: 1545-0930.
Form number: 8396.
Type of Review: Revision.
Title: Mortgage Interest Credit.
Description: Form 8396 is used by individual taxpayers to claim a credit against their tax for a portion of the interest paid on a home mortgage in connection with a qualified mortgage credit certificate. Internal Revenue Code section 25 allows the credit and Internal Revenue Code 163(g) provides that the interest deduction on Schedule A will be reduced by the credit.
Respondents: Individuals.
Estimated burden: 2,444 hours.
OMB number: None.
Form numbers: None.
Type of review: Revision.
Title: Taxpayer Interviews concerning 1988 Form W-4.
Description: The individual mall intercept interviews are necessary to obtain public input on alternative designs of the 1988 Form W-4, to ensure that the form is comprehensible and doable. The results will provide guidance for development of the final 1988 Form W-4. Affected public is 450 participants.
Respondents: Individuals.
Estimated burden: 387 hours.
Clearance officer: Garrick Shear, (202) 566-6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB reviewer: Milo Sunderhauf, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

U.S. Customs Service

OMB number: 1515-0049.
Form numbers: 7533.
Type of Review: Extension.
Title: Inward Cargo Manifest for Vessel Under Five Tons, Ferry, Train, Car, Vehicle, etc.
Description: Vessels under five tons and any vehicle carrying merchandise and arriving from contiguous country must report their arrival in the U.S. and produce a manifest on Customs Form 7533 listing merchandise being conveyed.
Respondents: Businesses.
Estimated burden: 41,650 hours.
Clearance officer: B. J. Simpson, (202) 566-7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue, NW., Washington, DC 20226.
OMB reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 87-13770 Filed 6-16-87; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

Senior Executive Service; Appointment of Members of the Legal Division to the Performance Review Board

June 11, 1987.

As Chief Counsel of the Internal Revenue Service, under the authority delegated to me by the General Counsel of the Department of the Treasury by General Counsel Order No. 21 (Rev. 4), and pursuant to the Civil Service Reform Act, I hereby appoint the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Chairperson, Peter K. Scott, Deputy Chief Counsel (Policy and Legal Programs);
2. D. Edward Wilson, Jr., Deputy General Counsel;
3. Vernon Jean Owens, Deputy Chief Counsel (Management and Operations);
4. Arnold E. Kaufman, Director, General Litigation Division;
5. Jack D. Yarbrough, Regional Counsel, Southeast Region.

This publication is required by section 4314(c)(4) of 5 United States Code.

William F. Nelson,

Chief Counsel.

[FR Doc. 87-13794 Filed 6-16-87; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 233-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Elaina Norden, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: June 10, 1987.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

Extension

1. Department of Medicine Surgery.
2. Report of State Home Construction Project Planning.
3. VA Form 10-1493.
4. This information is needed for VA budget projections for future grant-in-aid construction projects.
5. Annually.
6. State or local governments.
7. 40 responses.
8. 80 hours.
9. Not applicable.

[FR Doc. 87-13749 Filed 6-16-87; 8:45 am]

BILLING CODE 8320-01-M

Station Committee of Educational Allowances; Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on July 9, 1987, at 10:00 A.M., the St. Louis Station Committee on Educational Allowances shall at 1520 Market Street, St. Louis, MO 63103, Room 4431, conduct a hearing to determine whether Veterans Administration benefits to eligible persons enrolled in American Private Investigations, 1515 N. Warson Road, St. Louis, MO 63132, should be discontinued, as provided in 38 CFR 21.4232, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: June 8, 1987.

D.R. Ramsey,

Director, VA Regional Office, 1520 Market Street, St. Louis, MO 63103

[FR Doc. 87-13759 Filed 6-16-87; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 116
Wednesday, June 17, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 6/10/87, 52 FR 22027

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: June 12, 1987, 8:30 a.m.

CHANGE IN THE MEETING: The following docket numbers have been added to Item CAG–13

Item No. and Docket No. and Company

CAG–13—CP84–348–005, 006 and 007, Mississippi River Transmission Corporation; CP84–183–004, Transcontinental Gas Pipe Line Corporation; CI86–307–003, CI86–688–003, CI86–689–001 and CI86–689–002, Sea Robin Pipeline Company.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–13859 Filed 6–15–87; 10:17 am]

BILLING CODE 6717–02–M

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: June 12, 1987, 52 FR 22414

PREVIOUSLY ANNOUNCED DATE AND TIME OF THE MEETING: June 17, 1987, 10:00 a.m.

CHANGE IN THE MEETING: The Commission meeting scheduled for June 17, 1987 at 10:00 a.m. has been canceled.

Joseph C. Polking,

Secretary.

[FR Doc. 87–13867 Filed 6–15–87; 10:44 a.m.]

BILLING CODE 6730–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

June 12, 1987.

TIME AND DATE: 10:00 a.m., Thursday, June 18, 1987.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Westmoreland Coal Company, Docket No. WEVA 81–256–C. (Issues include consideration of petitions for discretionary review).
2. Ronald Tolbert v. Chaney Creek Coal Corporation, Docket No. KENT 86–123–D. (Issued include consideration of petition for discretionary review).
3. Wilfred Bryant v. Dingess Mine Services, Docket No. WEVA 85–43–D. (Issues include consideriaton of petition for discretionary review).

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR § 2706.150(a)(3) and § 2706.160(e).

It was determined by a unanimous vote for Commissioners that a meeting be held on these items and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5429.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87–13927 Filed 6–15–87; 8:45 am]

BILLNG CODE 6735–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, June 23, 1987.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The first two items will be open to the public. The last three items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. Aircraft Accident Report: Piper PA–23–150 N2185P and Pan American World Airways Boeing 727–235 N4743, Tampa, Florida, November 6, 1986
2. Railroad Accident report—Rear End Collision and Derailment of Two Union Pacific Railroad Freight Trains at North Platte, Nebraska, 7/10/86
3. Opinion and Order: Administrator v. Mines, Docket SE–6713; disposition of respondent's appeal (calendared by member Nall)
4. Opinion and Order: Administrator v. Harbin, Docket SE–7488; disposition of Administrator's appeal (calendared by Chairman)
5. Opinion and Order: Administrator v. Chu, Docket SE–7744; disposition of the Administrator's appeal (calendared by Chairman)

FOR MORE INFORMATION, CONTACT: Bea Hardesty, Staff Assistant, (202) 382–6525.

Bea Hardesty,

Staff Assistant.

June 12, 1987.

[FR Doc. 87–13845 Filed 6–15–87; 8:58 am]

BILLING CODE 7533–01–M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR No. 115]

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC

DATE PREVIOUSLY ANNOUNCED: Monday, June 15, 1987.

The following item will be considered at a closed meeting for Monday, June 15, 1987, at 5:00 p.m.

Legislative matter bearing enforcement implication.

Commissioner Grundfest, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

Andrew Feldman at (202) 272–2091.

Jonathan G. Katz,

Secretary.

June 12, 1987.

[FR Doc. 87–13822 Filed 6–12–87; 4:26 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of June 22, 1987:

Open meetings will be held on Tuesday, June 23, 1987, at 3:00 p.m., followed by a closed meeting, and on Wednesday, June 24, 1987, at 2:00 p.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A), and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, June 23, 1987, at 3:00 p.m., will be:

Consideration of whether to authorize the Division of Corporation Finance and the Office of the General Counsel to draft revisions to the Trust Indenture Act for proposal to the Congress. If enacted by the Congress, the proposed revisions would conform the Act to contemporary financing techniques, promulgate new conflicts-of-interest standards for indenture trustees, permit certain foreign persons to act as indenture trustees and effect miscellaneous technical changes in the Act. For further information, please contact Michael Hyatte, at (202) 272-2572.

The subject matter of the closed meeting scheduled for Tuesday, June 23, 1987, following the 3:00 p.m. open meeting, will be:

Regulatory matter regarding financial institution.
Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Institution of an administrative proceeding of an enforcement nature.

The subject matter of the open meeting scheduled for Wednesday, June 24, 1987, at 2:00 p.m., will be:

The Commission will meet with Financial Accounting Standards Board to discuss matters of mutual interest. The meeting will include discussions of the principal matters under active consideration by the FASB. These joint sessions form a part of the Commission's active oversight of the private sector's standard-setting activities regarding financial accounting and reporting. For further information, please contact Jim Bradow at (202) 272-2130.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

Bernard Black at (202) 272-2468.

Jonathan G. Katz,

Secretary.

June 12, 1987.

[FR Doc. 87-13823 Filed 6-12-87; 4:26 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 52, No. 116
Wednesday, June 17, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 222

Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education

Correction

In proposed rule document 87-13596 appearing on page 22501 in the issue of Friday, June 12, 1987, make the following correction:

In the second column, the second complete paragraph should read:

DATE: The comment period for proposed Subpart J only is extended until July 15, 1987.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Parts 193 and 561

[FAP 7H5518/R889; FRL 3200-9]

Pesticides Tolerances in Foods; Avermectin B_1

Correction

In rule document 87-11032 beginning on page 17941 in the issue of Wednesday, May 13, 1987, make the following corrections:

1. On page 17941, in the second column, in **SUPPLEMENTARY INFORMATION**, in the first paragraph, in the 13th line, "> 80 percent" should read "≥ 80 percent"; and in the 15th line, "< 20 percent" should read "≥ 20 percent".

2. On the same page, in the third column, in the first complete paragraph, in the seventh line, "> 0.4 milligram" should read "≥ 0.4 milligram".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[PF-480; FRL 3196-7]

Pesticide Tolerance Petitions; Union Carbide Agricultural Products Co. et al.

Correction

In notice document 87-10361 beginning on page 18019 in the issue of Wednesday, May 13, 1987, make the following corrections:

On page 18020, in the first column, under **7. PP 7F3491**, the 11th line should read "[bis(4-fluorophenyl)-"; and in the 12th line, "applies" should read "apples".

BILLING CODE 1505-01-D

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-40

[FPMR Amdt. G-81]

Transportation and Traffic Management

Correction

In rule document 87-12759 beginning on page 21031 in the issue of Thursday, June 4, 1987, make the following corrections:

§ 101-40.101-1 [Corrected]

1. On page 21032, in § 101-40.101-1, in the table, in the first entry, in the third column, add "FTS 242-5121" and "CML 404-331-5121"

§ 101-40.204 [Corrected]

2. On page 21033, in the second column, in § 101-40.204, in the fifth line, "interstate" should read "intrastate".

§ 101-40.205 [Corrected]

3. On the same page, in the third column, in § 101-40.205, in the 17th line, "there" should read "thereon".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 870

[Docket No. 85N-0331]

Cardiovascular Devices; Effective Date of Requirement for Premarket Approval; Replacement Heart Valve

Correction

In rule document 87-10851 beginning on page 18162 in the issue of Wednesday, May 13, 1987, make the following corrections:

§ 870.3925 [Corrected]

On page 18163, in the third column, in § 870.3925(c), in the fourth line, "*PDA*" should read "PDP"; and in the 17th line, "is" should read "in".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87N-0052]

Action Levels for Residues of Aldrin and Dieldrin, Chlordane, and DDT, TDE, and DDE, in Food and Feed

Correction

In notice document 87-10853 beginning on page 18025 in the issue of Wednesday, May 13, 1987, make the following corrections:

1. On page 18025, in the second column, in the **SUPPLEMENTARY INFORMATION**, in the second line, the date should read, "December 24, 1986".

2. On page 18026, in the second column, in Table I, in the first column of the table, in the 24th entry, "cereal" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWP-10]

Establishment of Control Zone and Transition Area at Kapalua, HI

Correction

In rule document 87-12899 beginning on page 21498 in the issue of Monday, June 8, 1987, make the following corrections:

§ 71.181 [Corrected]

1. On page 21499, in the second column, in § 71.181, under **Kapalua, Hawaii [NEW]**, in the fourth line, the longitude should read "156°40'38" W."

2. On the same page, in the second column, the FR Docket number should read "87-12899".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Office of the Assistant Secretary (Domestic Finance)

17 CFR Ch. IV

Implementation of Regulations; Temporary Issuance With Request for Comments; Government Securities Act of 1986

Correction

In rule document 87-11724 beginning on page 19642 in the issue of Tuesday, May 26, 1987, make the following corrections:

1. On page 19669, Schedule B contained several errors. It is correctly republished to read as follows:

Schedule B

Calculation of Net Immediate Positions in Securities and Financings
[In millions of dollars]

Maturity Category	Financings Long (+)	Financings Short (-)	Securities Positions Long (+)	Securities Positions Short (-)	Total Securities and Financing Positions (+)	Total Securities and Financing Positions (-)	Offset Portions (+)	Net Immediate Positions (+/-)
B 45-134 days	+30				+30		0	+30
F 3.5-7.5 yr. (3-5.5 yr.)			+20	-30	+20	-30	20	-10
Column #	1	2	3	4	5 (1+3)	6 (2+4)	7	8 (5+6)

2. On page 19672, in the second Schedule B, in the seventh, eighth, and ninth columns of the table, the entries "6", "7", and "8" should have appeared on the line above, aligned with the entry "5" in the sixth column. In the ninth column, the entry ⩾(5+6)⩾ should have appeared on the line above, aligned with the entry "(1+3)" in the sixth column.

3. On page 19674, in the second Schedule D, in the last column, the entry ⩾(17+18)⩾ appeared twice; the second entry should be removed.

4. On page 19681, Schedule E contained several errors. It is correctly republished to read as follows:

BILLING CODE 1505-01-D

Schedule E

Calculation of Hedging Disallowance Haircuts when Netting Haircuts Across Categories 1/

(In thousands of dollars)

	Maturity Category 2/	Residual Position Interim Haircuts (+/-)	20% Disallowance: Hedging Disallowance Haircuts (+)	20% Disallowance: Net Residual Position Interim Haircuts (+/-)	30% Disallowance: Hedging Disallowance Haircuts (+)	30% Disallowance: Net Residual Position Interim Haircuts (+/-)	40% Disallowance: Hedging Disallowance Haircuts (+)	40% Disallowance: Net Residual Position Interim Haircuts (+/-)	Hedging Disallowance Haircuts (+)	Qualified Netting Interim Haircuts (+)	
B	45-134 days	+216.0			0.0	+86.0			0.0	86.0	B
C	135 days-9 months	-130.0			39.0	0.0			39.0	0.0	C
D	9-18 months	0.0							0.0	0.0	D
E	1.5-3.5 years (1.5-3 years)	+716.1	0.0	+653.7	196.1	0.0			196.1	0.0	E
F	3.5-7.5 years (3-5.5 years)	-62.4	12.5	0.0					12.5	0.0	F
G	7.5-15 years (5.5-9 years)	-990.0			100.9	0.0			100.9	0.0	G
H	15-30 years (9-12 years)	+2,602.5	520.5	0.0					520.5	0.0	H
I	(12-21 years)	-3,487.5	0.0	-885.0					0.0	885.0	I
J	(21 years and over)	0.0							0.0	0.0	J
MB	mortgage-backed	+825.0			0.0	+488.7			0.0	488.7	MB
AR	adjustable rate mortgage-backed	-220.0							0.0	220.0	AR

Total Hedging Disallowance Haircut: $ 869.0

Residual Net Position Haircut: $ 1,679.7

Column Number	20 (Note 1)	21	22 (Note 2)	23	24 (Note 2)	25	26 (Note 2)	27# (Note 3)	28##

\# Column 27 carries forward to Schedule A, line 2c.

\## Column 28 total carries forward to Schedule A, line 2d.

Note 1: From Schedule D (or Schedule C, if no forwards, futures, or options).

Note 2: Net of two offsetting haircuts of paired maturity categories.

Note 3: For every entry in column 20 there should be an entry in either column 27 or 28 (but never both).

1/ See Sec 402.2(f)(3) for category pair hedging disallowance haircut factors.

2/ The categories are designated in Sec. 402.2(f)(1). A category contains all securities with maturities greater than or equal to the lower of the designated maturities, but less than the higher. Maturity designations in parentheses refer to maturities of zero-coupon instruments to be placed in the category. In categories A, B, C, and D, zero-coupon instruments are to be treated in the same manner as all other instruments. A half year (.5) is always considered to be 6 months.

§402.2a [Corrected]

5. In §402.2a, in Appendix A, on page 19693, Schedules B and C contained several errors. They are correctly republished to read as follows:

BILLING CODE 1505-01-D

Schedule B

Calculation of Net Immediate Positions in Securities and Financings

	Maturity Category 1/	Financings		Securities Positions		Total Securities and Financing Positions		Offset Portions	Net Immediate Positions	
		Long 2/ (+)	Short 2/ (-)	Long (+)	Short (-)	(+)	(-)	(+)	(+/-)	
A	0-44 days									A
B	45-134 days									B
C	135 days-9 months									C
D	9-18 months									D
E	1.5-3.5 years (1.5-3 years)									E
F	3.5-7.5 years (3-5.5 years)									F
G	7.5-15 years (5.5-9 years)									G
H	15-30 years (9-12 years)									H
I	(12-21 years)									I
J	(21 years and over)									J
MB	mortgage-backed									MB
AR	adjustable rate mortgage-backed									AR
	Column Number	1	2	3	4	5 (1+3)	6 (2+4)	7# (Note 1)	8# (5+6)	

Carry forward to Schedule C.

Note 1: The offset portion (Column 7) is the smaller of Columns 5 and 6.

1/ The categories are designated in Sec. 402.2(f)(1). A category contains all securities with maturities greater than or equal to the lower of the designated maturities, but less than the higher. Maturity designations in parentheses refer to maturities of zero-coupon instruments to be placed in that category. In categories A, B, C, and D, zero-coupon instruments are to be treated in the same manner as all other instruments. A half year (.5) is always considered to be 6 months.

2/ Long financings are financings which provide securities to a broker or dealer; short financings are those which provide funds.

Schedule C

Governments Offset Portion and Net Immediate Position Interim Haircuts Calculation

	Maturity Category 1/	Governments Offset Portion $ Amounts (+)	Governments Offset Portion Factors	Governments Offset Portion Haircuts (+)	Net Immediate Position $ Amounts (+/-)	Net Immediate Position Factors	Net Immediate Position Interim Haircuts (+/-)
A	0-44 days		None			None	
B	45-134 days		0.0002			0.0012	
C	135 days-9 months		0.0003			0.0020	
D	9-18 months		0.0007			0.0045	
E	1.5-3.5 years (1.5-3 years)		0.0022			0.0110	
F	3.5-7.5 years (3-5.5 years)		0.0044			0.0220	
G	7.5-15 years (5.5-9 years)		0.0050			0.0330	
H	15-30 years (9-12 years)		0.0100			0.0500	
I	(12-21 years)		0.0155			0.0775	
J	(21 years and over)		0.0338			0.1125	
MB	mortgage-backed		0.0066			0.0330	
AR	adjustable rate mortgage-backed		0.0022			0.0110	
	Total Governments Offset Portion Haircut $_____						
	Column Number	7 (Note 1)	9	10# (7x9)	8 (Note 1)	11	12## (8x11)

Carry to Schedule A, line 2a

Carry forward to Schedule D (or Schedule E, if no forwards, futures, or options).

Note 1: From Schedule B.

1/ The categories are designated in Sec. 402.2(f)(1). A category contains all securities with maturities greater than or equal to the lower of the designated maturities, but less than the higher. Maturity designations in parentheses refer to maturities of zero-coupon instruments to be placed in the category. In categories A, B, C, and D, zero-coupon instruments are to be treated in the same manner as all other instruments. A half year (.5) is always considered to be 6 months.

BILLING CODE 1505-01-C

Federal Register

Wednesday
June 17, 1987

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 36 and 91

Noise Standards and Air Traffic Operating and Flight Rules; Proposed Limits on the Growth of Noise From Certain Airplanes and Airplane Types; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 36 and 91

[Docket No. 25303; Notice No. 87-6]

Noise Standards and Air Traffic Operating and Flight Rules; Proposed Limits on the Growth of Noise From Certain Airplanes and Airplane Types

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise both noise certification standards and operating noise rules to ensure that aircraft certificated within certain noise level groups or "stages" remain within those stages. These proposals would apply to large transport category aircraft and to turbojet powered aircraft regardless of category. The proposed rule would prohibit modification of both individual airplanes and whole airplane types where those modifications would result in the growth of noise beyond the limits of the airplane's certificated stage. While the proposal would not restrict airplane changes that result in lower noise, it would in some cases prohibit re-modification of those airplanes to return to their original noise levels. The FAA believes that these rules are necessary to correct a defect in the current regulations and to protect airports, airplane operators and the public from the effects of that defect.

DATES: Comments must be received on or before September 14, 1987.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 25303, 800 Independence Ave., SW., Washington, DC 20591; or deliver comments in triplicate to: FAA Rules Docket, Room 915-G 800 Independence Ave., SW., Washington, DC 20591.

Comments may be examined in the Rules Docket, weekdays except Federal Holidays, between 8:30 a.m., and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Steven R. Albersheim, Noise Policy and Regulatory Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267-3560.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Substantive comments should be accompanied by cost estimates. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address listed above. All communications received before the specified closing date on the proposed rule will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25303." The postcard will be date/time stamped and mailed to the commenter.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-12A which describes the application procedure.

Synopsis of the Proposal

Part 36 of the Federal Aviation Regulations (14 CFR Part 36) contains noise standards for aircraft type and airworthiness certification. Those standards applicable to large (greater than 75,000 pounds maximum takeoff weight) transport category airplanes and turbojet powered airplanes regardless of category prescribe three broad groups of noise levels. These noise levels are labeled Stage 1, Stage 2, and Stage 3 with Stage 1 being the noisiest and Stage 3 the most quiet. Although Part 36 allows amendment of airplane type certificates for airplane types and their derivatives within noise stage and to quieter noise stages, it generally does not allow recertification to a higher noise level. The exceptions have been Stage 2 airplanes which have voluntarily been brought into compliance with the Stage 3 (quietest) requirement. Since these "voluntary" Stage 3 airplanes were only required to meet Stage 2, Part 36 currently allows them and their derivatives to become Stage 2 airplanes again. The FAA proposes to amend Part 36 by requiring airplanes once brought into compliance with Stage 3 to remain within that Stage.

Similarly, Part 91 (14 CFR Part 91) contains the general operating rules applicable to individual airplanes. Subpart E of Part 91 contains operating noise limits, including one that requires that certain subsonic airplanes be shown to comply with either Stage 2 or Stage 3 as a condition for operating to or from any airport in the U.S. This notice proposes to add a provision to Subpart E to require that after the effective date of the rule any airplane which has been modified to meet Stage 3 noise limits must remain a Stage 3 airplane. This proposal would apply to all U.S. operators operating to or from airports in the U.S. It would not apply to foreign operators, even if they fly to the U.S.

It should be noted that these proposed amendments do not affect the definition of "acoustical change" found in Section 21.93 of this chapter. Specifically, the 90-day exclusion from compliance with Part 36 for certain temporary acoustical changes would remain intact. Further, since those temporary changes in type design do not change the acoustical stage designation of the aircraft, the 90-day exclusion could not be used to circumvent the intent of the proposal by permanently increasing the noise of the aircraft.

Need for the Regulation

Generally, Part 36 requires that an individual airplane brought into compliance with the standards of a particular noise stage remain within that stage. Further, derivatives of a type design must remain within the same stage. There are two exceptions. Pursuant to § 36.7(e)(2)(i), an airplane of any stage may be brought into compliance with any quiter Stage and a Stage 2 airplane brought into compliance with the Stage 3 standard may presently be returned to Stage 2 (as may its derivatives). This is not true.

however, of the rules applicable to other airplanes. For instance, § 36.7(e)(2)(ii) provides that airplanes which were required to be type certificated to Stage 3 aircraft are required to remain Stage 3.

To protect airplane operators and others affected by airplane noise, such as airport proprietors and communities surrounding airports, the FFA proposes to bring the Stage 3 acoustical change requirements into conformance with the requirements for the other stages. The FAA believes this is necessary to stop the gradual erosion of the noise standard by a multitude of small modifications to Stage 3 versions of previously Stage 2 airplanes. An example of this type of airplane is the McDonnell-Douglas MD–80 which is type certificated as a Stage 3 airplane and which has been widely advertised, purchased and operated as a Stage 3 airplane. While the manufacturer has no current plans to produce a Stage 2 version of the MD–80, it would be unfair for the FAA to allow a regulatory situation to continue where small changes in weight, engine power, or acoustical treatment might increase the noise levels beyond the Stage 3 limit.

A similar problem exists for some individual airplanes. These are airplanes which have configurations certificated in both Stage 2 and Stage 3 versions. Some of these versions differ because of the amount or type of installed noise abatement equipment. Others differ in airplane performance because of differences in certificated limitations in weight and landing flap configurations. Each certificated combination is, under FAR Parts 21 and 36, a separate configuration. Because the operators of these airplanes often have a dozen or more configurations available for each airplane, it is difficult for the FAA, affected airports, and the public to accurately gauge their noise. After careful consideration of the issue, the FAA has determined that it would be unduly burdensome to propose a total ban on such configuration changes. Instead, this Notice proposes only to require that, after the effective date of the rule, any Stage 3 airplane must remain a Stage 3 airplane. Stage 2 aircraft would be free to remain Stage 2 aircraft. However, if a Stage 2 aircraft were to be voluntarily reconfigured to a Stage 3 certificated configuration, then that airplane would be obliged to remain within Stage 3. Operators would be free to choose any configuration from among those meeting the applicable stage.

Section-by-Section Analysis

This notice proposes four changes to existing Parts 36 and 91.

1. Section 36.7(e)(2) would be retitled and amended to limit its applicability to the period on or before May 5, 1976 and the date of this NPRM.

2. A new § 36.7(e)(3) would be added for applications for acoustical changes of Stage 3 aircraft on or before the date of this NPRM. The paragraph would require that acoustical changes to Stage 3 airplane types be limited to airplanes that would, themselves, meet the Stage 3 standard.

3. Section 91.301(a), which describes the applicability of Part 91, Subpart E, would be amended to add a paragraph (4) referencing the new § 91.312. These sections would apply to all operators of large transport category airplanes and turbojet powered airplanes regardless of category.

4. A new § 91.312 would be added to require that each Stage 3 airplane modified after the effective date of the rule must remain a Stage 3 airplane. This notice does not propose to restrict any other choice of operational configurations within an airplane noise stage. Applicability would be on the effetive date of the regulation, rather than the date of the NPRM, to provide operators of affected aircraft both notice and time in which to make a deliberate choice between stages.

Regulatory Impact Evaluation

The FAA prepared a regulatory evaluation which is included in the regulatory docket. This evaluation reviews each proposed change to Parts 36 and 91. The FAA determined that this Notice is consistent with the objectives of Executive Order 12291 as part of the President's Regulatory Reform Program to reduce regulatory burdens on the public. This NPRM imposes no additional costs on the Federal government.

The amendments proposed in this Notice would provide benefit in the aggregate to the aviation public by simplifying and standardizing the certification and operational requirements for noise for large transport category aircraft and turbojet powered aircraft regardless of category. In addition, the proposals are expected to provide several other benefits to the general public, including an upper limit on the level of noise emission resulting from modification of aircraft of the same general type. Minimal additional costs to the airlines are expected to result from the proposed rule changes.

The FAA invites comments on the regulatory evaluation which is included in the Docket.

Regulatory Flexibility Determination

The FAA has determined that no small entities as defined by the Regulatory Flexibility Act would be impacted by the proposed amendments to Parts 36 and 91. There are currently only 6 operators which have aircraft certificated to both Stage 2 and Stage 3 noise levels which would be affected by the proposed changes to FAR Part 91. None of these operators meets the criteria to be considered a small entity. Only two aircraft manufacturers are currently producing aircraft which voluntarily meet Stage 3 levels which are addressed by Part 36. Both are major manufacturers and are therefore not considered to be impacted under the regulatory flexibility determination.

Therefore, it is certified that the proposal, if enacted, will not have significant economic impact on a substantial number of small entities.

Environmental Analysis

Pursuant to Department of Transportation "Policies and Procedures for Considerating Environmental Impacts" (FAA Order 1050.1D), the FAA has determined that this proposal would not constitute a major Federal action significantly affecting the quality of the human environment. The proposed changes would only marginally lower aircraft noise levels. Therefore, no detailed environmental assessment or environmental impact statement was required.

Conclusion

The FAA has determined that this document involves proposed regulations which are not considered to be major under the procedures and criteria prescribed in Exeuctive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the person identified in the section entitled **"FOR FURTHER INFORMATION CONTACT."** For the reasons stated in the regulatory evaluation, I certify that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities. In addition, these proposals, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

The Proposed Amendments

Accordingly, the Federal Aviation Administration proposes to amend Parts

36 and 91 of the Federal Aviation Regulations (14 CFR Parts 36 and 91) in part as follows:

PARTS 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFCATION

1. The authority citation for Part 36 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 21, 1983).

§ 36.7 [Amended]

2. Paragraph 36.7(e)(2) would be amended to add the words "and before (the effective date of the rule)" after the words "on or after May 5, 1976" each place those words appear.

3. Section 36.7 would be amended to add a paragraph (e)(3) to read as follows:

* * * * *

(e) * * *

(3) *Applications on or after (the effective date of the rule).* The airplane must remain a Stage 3 airplane after the change in type design.

PART 91—GENERAL OPERATING AND FLIGHT RULES

4. The authority citation for Part 91 continues to read as follows:

Authority: 49 U.S.C. 1344, 1348, 1354(a), 1356, 1421, 1423, 1424, 1425, 1428, 1429, 1430, 1431(b), 1651(b)(2), 2121 through 2125,; 42 U.S.C. 4321 et seq.; Sec. 124 of Pub L. 98–473, E.O. 11514, 49 U.S.C. 106(g) (Revised Pub L. 97–449, January 12, 1983).

§ 91.301 [Amended]

5. Section 91.301 would be amended to add a paragraph (a)(4) to read as follows:

(a) * * *

(4) Section 91.312 applies to U.S. operators of subsonic transport category large airplanes and subsonic turbojet powered airplanes regardless of category. That section applies to operators operating to or from airports in the United States under this part and Parts 121, 125, 127, and 135, but not those operating under Part 129 of this chapter.

* * * * *

6. A new § 91.312 would be added to read as follows:

§ 91.312 Noise change limits.

No individual airplane shown to comply with either Stage 2 or Stage 3 noise levels may, after the effective date of this rule, be modified to exceed the limits of that stage. If an individual Stage 2 airplane is modified to meet Stage 3 limits, that airplane must remain a Stage 3 airplane.

Issued in Washington, DC, on June 9, 1987.

Norman H. Plummer,

Director of Environment and Energy.

[FR Doc. 87–13627 Filed 6–16–87; 8:45 am]

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federal register

Wednesday
June 17, 1987

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reclassification of Ranched Nile Crocodile Populations in Zimbabwe From Endangered to Threatened; Final Rule and Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reclassification of Ranched Nile Crocodile Populations in Zimbabwe From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service reclassifies ranched populations of the Nile crocodile (*Crocodylus niloticus*) in Zimbabwe from endangered to threatened status under Section 4 of the Endangered Species Act, 16 U.S.C. 1531 *et seq.* (hereinafter the "Act" or "ESA"). This change is supported by available biological information on the status of these populations of the species and changes in the Nile crocodile's status from Appendix I to II at the 1983 Botswana meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). This reclassification includes promulgation of a special rule that allows for importation of live animals or whole skins of ranched Nile crocodiles in Zimbabwe into the U.S. provided that all requirements of CITES with respect to Appendix II species, and the laws of Zimbabwe, are met. Wild populations of Nile crocodiles in Zimbabwe are not affected by this rule. The Service concludes that the ranched populations of Nile crocodiles in Zimbabwe are no longer in danger of extinction. The Service also announces in this same part of today's **Federal Register** the opening of a 90-day comment period on a proposed rule to reclassify Zimbabwe's wild Nile crocodile populations from endangered to threatened.

DATES: The effective date of this rule is July 17, 1987.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Service's Office of Endangered Species, 1000 North Glebe Road, Suite 500, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Brian P. Cole, Acting Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The Nile crocodile, *Crocodylus niloticus*, is one of the largest crocodilians, second in size only to the saltwater crocodile, *Crocodylus porosus*. Adults may weigh up to 2200 pounds (1000 kilograms) and reach a length of 16.4 feet (5 meters) (Pooley and Gans 1976). Like other crocodilians, the species is behaviorally sophisticated, and many aspects of its ecological requirements are reasonably well known as a result of studies in various parts of its range (see Cott 1961, Modha 1967, Watson *et al.* 1971). Historically, the species occurred along the Mediterranean coast as far west as Tunis and as far north as Syria (Pooley and Gans 1976) although today it is confined to the lower Nile, tropical and southern Africa, and Madagascar.

Throughout much of its range, the Nile crocodile has been eliminated, or populations have been seriously reduced, due to hunting for the hide industry, killing animals because of their potential threat to humans, livestock, and the fishing industry, or habitat alteration. The Nile crocodile was listed as endangered in the **Federal Register** of June 2, 1970 (35 FR 8495), because of the widespread decline of the species from overharvesting throughout its range. In some areas, including Zimbabwe, human development has increased available habitat through the creation of lakes and lagoons from damming swift flowing rivers. In Africa today, some populations are apparently increasing or at least stabilized, although others continue to decline (Pooley 1982). The most serious threat continues to come from the uncontrolled exploitation of wild populations for the hide industry.

A number of African countries, however, now recognize the Nile crocodile as a valuable part of their natural heritage, both in terms of the service it plays in its ecological role, as well as a source of economic benefit from the tourist industry and in the potential for ranching animals for a controlled harvest of hides. Various measures have been used, including complete protection, to conserve populations, and most countries now recognize the need for sound biological data prior to instituting management, even if their present resources restrict their ability to conduct the required studies. Of those countries that have started ranching operations, Zimbabwe appears to have the best information base on native populations. Other nations, particularly Zambia, Mozambique, South Africa, and Botswana are presently gathering data on their crocodilian populations in connection with established ranches or ranching proposals in those countries.

In Zimbabwe, the Nile crocodile inhabits streams and lakes, primarily under 4,900 feet (1,500 meters) in altitude, in the Zambezi River watershed (Pooley 1982). In addition, sizeable populations occur in Lake Kariba. Research has centered on the Lake Kariba population to determine numbers of animals, movement patterns, and ecological requirements; counts in this area alone estimate 29,000 ± plus 4,000 animals. Additional surveys throughout the range of the Nile crocodile raise the estimate to 50,000 within the country (Convention on International Trade in Endangered Species of Wild Fauna and Flora, CITES 1983). Information on research within Zimbabwe may be found in CITES (1983) and Hutton (1982). The Zimbabwe Wildlife Department considers the species "out of danger" (CITES 1983).

At present, there are six crocodile ranches in Zimbabwe. These are: (1) Kariba Crocodile Farm (Pvt.) Ltd., at Kariba, established in 1965; (2) Binga Crocodile Rearing Station at Binga (on Lake Kariba), established in 1967; (3) Spencer Creek Crocodile Ranch (Pvt.) Ltd., at Victoria Falls, established in 1971; (4) Sengwa River Mouth Rearing Station at Sengwa Mouth, Lake Kariba, established in 1977; (5) Rokari Crocodile Ranch on Lake Kariba, established in 1981; and (6) Lion and Cheetah Park, established in 1983.

Ranches follow a set of general procedures to rear crocodiles to a size that produces marketable skins (CITES 1983). First, a ranch must obtain a permit from the Department of National Parks and Wildlife Management to collect eggs from wild crocodile nests. Although an entire clutch can be taken, the Department limits wild egg collection to designated areas; cumulatively, for all ranches, egg collection has been limited to under 10,000 per year.

Eggs are transported in styrofoam containers from wild nests to the ranch, where they are incubated in boxes with moist vermiculite. Hatchlings are placed in holding pens for at least 24 hours and are then transferred into 10–15 m long x 1.5 wide x 1 m deep concete hatchling pens. Each pen has two ponds which house 200–300 hatchlings. When crocodiles become 9–10 months old, they are placed into 20 x 8 x .75 m rearing pens where they remain until their skins are harvested. Animals are cropped when they reach approximately 1.5 m in length. The skins are salted, rolled, and stored for dispatch to tanneries; heads and feet are sold as tourist curios, carcasses are used for food for other

ranced crocodiles, and some meat is sold in restaurants.

In 1982, these ranches held 10,346 hatchlings, 12,742 slaughter stock, and 149 breeding stock. Although eggs collected under permit from wild nests supply the bulk of the animals for the ranches, attempts are being made to supply future needs for eggs from breeding stocks. In 1981, Kariba and Spencer ranches produced between 30 and 50 percent of the total eggs from captive breeding stocks (CITES 1983).

In 1981, Zimbabwe exported a total of 2,890 skins to France; it is expected that most future exports will continue to be made to European countries.

The Fourth Meeting of the Conference of the Parties to CITES occurred on April 19–30, 1983, in Gaborone, Botswana. At the meeting, the Parties considered proposals to amend the appendices. The proposals were listed in three **Federal Register** notices (47 FR 51772, November 17, 1982, and 47 FR 57524, December 27, 1982, for proposals by the United States, and 48 FR 9545, March 7, 1983, for proposals by other Parties). Included among the proposals was that of Zimbabwe to reclassify Nile crocodiles within that country from Appendix I to II. This proposal (Document 4.39; summary report considered at Plen. 4.10) was accepted by the Parties. The Service published notice of the change in CITES status for Zimbabwe's population of Nile crocodiles in the **Federal Register** of July 5, 1983 (48 FR 30732). The Service published a proposal to reclassify ranched Nile crocodile populations in Zimbabwe from endangered to threatened by similarity of appearance on March 7, 1986 (51 FR 7965).

After considering the documentation provided by Zimbabwe during the CITES meeting in Botswana, as well as the references provided in the "Literature Cited" section of this proposed rule, the Service no longer considers ranched populations of Nile crocodiles in Zimbabwe to be "in danger of extinction throughout all or a significant portion of its range" (i.e., endangered). This finding is based on substantial increases in the total number of breeding crocodiles on ranches and ranch egg production (see Pooley 1982, CITES 1983, and Caldwell 1983). The captive ranched populations of the species in Zimbabwe appear to have biologically recovered to the point where reclassification to threatened is warranted. In the proposed rule (51 FR 7965), the Service proposed to reclassify Zimbabwe's ranched populations to threatened by similarity of appearance. However, because ranches are still dependent on wild eggs to maintain crocodiles (ranches are not self-sustaining), and because wild populations are still threatened, to some degree, by poaching and take (e.g., eggs for ranches and killing of individual crocodiles to protect property and human lives), the Service now believes that reclassification to a threatened status is more appropriate.

This final rule does not change protection given to the wild populations of *C. niloticus* in Zimbabwe and elsewhere in Africa as endangered; however, the Service is also proposing to reclassify Zimbabwe's wild populations to a similar status in a separate proposed rule (see separate proposal in this part of today's **Federal Register**).

When the March 7, 1986, proposed rule was published, the Service believed that wild Nile crocodile populations in Zimbabwe had not been transfered from Appendix I to Appendix II of CITES. This belief was the basis for separating ranched from wild Nile crocodile populations. However, based on comments provided by Zimbabwe and Safari Club International on the proposed rule (see the "Summary of Comments and Recommendations" section of this rule), the Service believes that, in addition to ranched populations, Zimbabwe's wild Nile crocodiles should be reclassified from endangered to threatened; they are no longer in danger of extinction (see discussion on wild populations in the "Background" section of this rule). Therefore, the Service is proposing to reclassify Zimbabwe's wild Nile crocodiles from endangered to threatened in a separate proposed rule in today's **Federal Register.**

Summary of Comments and Recommendations

In the March 7, 1986, proposed rule (51 FR 7965) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate Federal agencies, scientific organizations, the country of Zimbabwe, and other interested parties were contacted and requested to comment. The comment period was extended from May 6, 1986, to July 10, 1986, as announced in the **Federal Register** on June 19, 1986 (51 FR 22321). Six letters of comment were received; five supported the proposal and one opposed the rule. Those supporting the proposed rule included the Zimbabwe Department of National Parks and Wild Life Management (ZDPWM), Dr. Peter Brazaitis of the New York Zoological Society, Dr. F. Wayne King of the Florida State Museum and the Crocodile Specialist Group of the IUCN Species Survival Commission, Mr. Tony Pooley, a crocodile farming manager, and Mr. James H. Glass, president of The Wildlife Legislative Fund of America. Mr. Richard Parsons submitted comments on behalf of the Safari Club International, and although he indicated that the organization supported reclassification of Nile crocodiles throughout their range, he recommended that the proposed rule be withdrawn, amended to include wild Nile crocodile populations in Zimbabwe, and then be reproposed. No request was received for a public hearing, and none was held.

Summaries of all comments addressing the issue of reclassifying Zimbabwe's ranched Nile crocodile populations are covered in the following discussion. Comments of similar content are grouped into issues. These issues and the Service's response to each are discussed below.

Issue 1: ZDPWM and Safari Club International pointed out that the Service should not have split ranched from wild populations in proposing this rule. They asserted that CITES had transfered all Nile crocodile populations in Zimbabwe from Appendix I to Appendix II. Both pointed out that the Service was incorrect in stating that "The change in CITES classification does not affect Zimbabwe's wild crocodiles, which remain on Appendix I."

Response: The Service acknowledges that CITES transferred all Nile populations in Zimbabwe from Appendix I to Appendix II. At the time of the proposal, the Service believed that populations of ranched Nile crocodiles could withstand commercialization, subject to the laws of Zimbabwe and regulations of CITES. However, the Service continues to believe that data are insufficient to demonstrate that wild Nile crocodile populations can withstand commercialization. In addition, the Endangered Species Act (Act) provides for the reclassification of only certain populations of a species. For these reasons, the Service decided to split ranched from wild populations and to propose a downlisting for only the later. However, based on evaluation of data on wild Nile crocodiles and information provided by ZDPWM and Safari Club International, the Service response to this issue by proposing to reclassify Zimbabwe's wild Nile crocodile populations from endangered to threatened in this same part of today's **Federal Register.** The Service now believes that wild populations are no longer endangered; however, because

these populations are still threatened to some degree by taking, and because ranches are dependent on wild eggs for maintaining captive populations, the Service believes that a threatened status is most appropriate.

Issue 2: ZDPWM noted that the Service had misinterpreted two facts about Nile crocodiles within the country. First, ZDPWM expressed that crocodiles cause considerable damage to both fishing nets and their catch. In the proposed rule, the Service stated that Nile crocodiles had been eliminated or reduced due to "a mistaken notion that crocodilians compete with fishermen for desired fish species." Second, ZDPWM pointed out that "while uncontrolled hunting may be a problem in some countries this does not apply in Zimbabwe."

Response: Regarding ZDPWM's comment on conflicts between crocodiles and fishermen, the Service has incorporated this into the final rule. Regarding uncontrolled hunting, the Service still believes that this was the principal factor in the decline of the Nile crocodile throughout Africa. However, the Service believes that Zimbabwe has taken the lead in alleviating this problem, and this, in part, has prompted the Service to propose a rule to reclassify wild populations in Zimbabwe (see later discussion in Factor D of the "Summary of Factors Affecting the Species" section).

Issue 3: Dr. Peter Brazaitis of the New York Zoological Society expressed concern about management of Nile crocodiles in Zimbabwe. He expressed concern over the impact of ranching on wild populations and urged Zimbabwe to monitor the effect of this commercial utilization on wild populations. He also stated that because of verification problems, only direct shipments of Zimbabwe skins or products should be permitted entry into the U.S.

Response: The Service recognizes these problems and will continue to encourage the monitoring of ranched and wild populations. The Service will also continue to advocate a strict policy of commercial regulation adopted by CITES.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that ranched populations of Nile crocodiles in Zimbabwe should be reclassified from a status of endangered to threatened. Procedures found at section 4(a)(1) of the Act (16 U.S.C. 1531 (*et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth five factors to be used in determining whether to add, reclassify, or remove a species from the List of Endangered and Threatened wildlife. These factors, and their applicability to ranched populations of the Nile crocodile in Zimbabwe, are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. Ranched populations of Nile crocodiles are dependent on manmade habitats consisting mostly of concrete ponds that are surrounded by artifically maintained areas of trees and shrubs (see Background). As ranches become more self-sufficient (i.e., more eggs produced from captive animals), facilities will likely grow, thus increasing the amount of habitat. Additionally, juvenile survival rates should increase with improvements in captive feeding schemes (i.e., dietary mix).

The number of ranches has remained relatively constant since 1971 (see CITES 1983). However, the number of ranches could increase if efficiency and profit in production of crocodile skins continue to improve. Increases in the number of ranches will increase the amount of habitat of ranched Nile crocodiles in Zimbabwe.

B. Overutilization for commercial, recreational, scientific, or educational purposes. Commercial use of the ranched populations is strictly controlled (see section D. below), and ranched populations enhance populations in the wild by reducing illegal commercialization of wild animals. However, the Service believes that ranched populations of Nile crocodiles in Zimbabwe are still threatened (see discussion in the "Background" section); therefore, the Service is reclassifying Zimbabwe's ranched Nile crocodiles to a status of threatened rather than threatened by similarity of appearance.

C. Disease or predation. None known at this time.

D. The inadequacy of existing regulatory mechanisms. Crocodiles in Zimbabwe are regulated through the development of an 11-point policy administered by the Department of National Parks and Wildlife Management (Zimbabwe Department of National Parks and Wildlife Management 1982, CITES 1983). Among the provisions of this policy are: (1) All crocodiles are fully protected in National Parks and conserved in all Safari Areas, (2) wild crocodiles will normally not be harvested for the skin industry, (3) wild eggs can be harvested only by permit, with the allowance for a 5 percent return of crocodiles to the wild, or for other conservation purposes, as appropriate, (4) problem crocodiles will be destroyed if relocation is not possible, (5) education is stressed about the importance and value of crocodiles, (6) strict control is maintained of the rearing stations, (7) permits are allowed for export only to persons who are managing and conserving the crocodile, and (8) live crocodiles can only be exported if the Department is satisfied that animals will be cared for under proper scientific and aesthetically acceptable conditions. Most of these regulations, with the exceptions of regulation of rearing stations and export of live animals, are internal management regulations designed to ensure that Nile crocodiles are managed and conserved as a renewable resource and valued part of Zimbabwe's wildlife heritage.

The Service believes that the regulations and policies of Zimbabwe are sufficient to ensure the survival of ranched populations. The laws of Zimbabwe, coupled with CITES requirements, appear adequate to allow a change of ranched populations to threatened, and to allow for the promulgation of a special rule to allow for import of Zimbabwe's ranched Nile crocodiles into the U.S.

E Other natural or manmade factors affecting its continued existence. None known at this time.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in making this rule final. Based on this evaluation, the preferred action is to reclassify Zimbabwe's ranched Nile crocodiles from endangered to threatened. Criteria for reclassification of a threatened or endangered species are found in 50 CFR 424.11(d). They include extinction, recovery of the species, and error in the original data for classification. This rule is based upon evidence that Zimbabwe's ranched Nile crocodiles have recovered to a point at which they are no longer in danger of extinction. However, because wild populations are still threatened to some degree by taking, and because ranches are dependent on wild eggs to maintain captive populations, reclassification to threatened by similarity of appearance, or delisting, is not appropriate. In addition, biological data are insufficient to show a complete biological recovery of Nile crocodile in Zimbabwe.

Effects of This Rule

This rule changes the status of ranched populations of the Nile crocodile in Zimbabwe from endangered

to threatened. As such, those regulations specifically pertaining to threatened species (50 CFR 17.21 and 17.31) apply. A special rule designated with this final rule amends 50 CFR 17.42 to allow for the import of live Nile crocodiles, or whole skins, that originate from ranches in Zimbabwe without an endangered species permit for individual shipments otherwise required by 50 CFR Part 17. In addition, all requirements of CITES, including proper export or reexport permits with respect to Appendix II species, as well as the laws of Zimbabwe must be met prior to allowing the importation of ranched crocodiles into the U.S. These requirements are already in effect. This rule effects only ranched Nile crocodiles in Zimbabwe; all other populations remain endangered.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the Authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is K. Bruce Jones, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240.

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 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. 95–362, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et. seq.*).

2. Amend § 17.11(h) by revising the entry for the Nile crocodile under "Reptiles" on the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
REPTILES							
*	*	*	*	*	*	*	*
Crocodile, Nile	*Crocodylus niloticus*	Africa, Middle East	Entire (except ranched populations in Zimbabwe).	E	3,279	N/A	N/A
Crocodile, Nile	*Crocodylus niloticus*	Africa, Middle East	Zimbabwe (ranched populations only).	T	279	N/A	17.42(c)
*	*	*	*	*	*	*	*

3. Section 17.42 is amended by adding a new paragraph (c), as follows.

§ 17.42 Special rules-reptiles.

* * * * *

(c) Nile crocodile (*Crocodylus niloticus*)-(1) Prohibitions. The following prohibitions apply to the Nile crocodile:

(i) Import. (A) Except as allowed in paragraph (a)(1)(i)(B) of this section, it shall be unlawful to import any such wildlife for commercial purposes.

(B) Ranched Nile crocodiles in Zimbabwe, consisting only of live animals and whole skins, which are tagged or otherwise identified as removed from ranches in accordance with the laws of Zimbabwe and in compliance with requirements of CITES for Appendix II species (50 CFR Part 23) may be imported into the United States directly from Zimbabwe without permits for individual shipments otherwise required by 50 CFR Part 17. Importation into the United States must comply with the requirements of 50 CFR Part 14 and 23.

(ii) Unlawfully imported Nile crocodiles. It shall be unlawful, in the course of a commercial activity, to deliver, receive, carry, transport, or ship in interstate or foreign commerce any such wildlife imported unlawfully.

(iii) Commercial transactions. It shall be unlawful to sell or offer for sale in interstate or foreign commerce any such wildlife imported unlawfully.

Dated: May 29, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–13799 Filed 6–16–87; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Reclassification of Wild Nile Crocodile Populations in Zimbabwe from Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: In a related document in this part of today's **Federal Register**, the Service reclassified ranched populations of the Nile crocodile in Zimbabwe from endangered to threatened. As described in that rule, the Service received comments from Zimbabwe and Safari Club International that wild populations of Nile crocodiles in Zimbabwe should also be reclassified. The Service seeks additional comments on this proposal to reclassify wild populations of Nile crocodiles in Zimbabwe from endangered to threatened.

DATES: Comments from all interested parties must be received by September 15, 1987. Public hearing requests must be received by August 3, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Assistant Director, Fish and Wildlife Enhancement Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Service's Office of Endangered Species, 1000 North Glebe Road, Suite 500, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Brian P. Cole, Acting Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

In a final rule published in today's **Federal Register** the Service reclassified Zimbabwe's ranched Nile crocodile populations from endangered to threatened. For further information on the comments and discussion over the purpose and effects of that rule and this proposal, see that document. This proposed rule, if made final, would reclassify wild Nile crocodile populations in Zimbabwe from endangered to threatened and would revise 50 CFR 17.11(h) by recognizing both wild and ranched Nile crocodiles in Zimbabwe as threatened. Nile crocodiles in other countries would remain in the endangered status; data are insufficient to propose downlisting in other African countries. In addition, this rule would allow for the import of wild Nile crocodiles into the U.S. in the course of a non-commercial activity (see discussion in the "Effects of this Rule" section).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth five factors to be used in determining whether to add, reclassify, or remove a species from the list of endangered and threatened species. These factors, and their applicability to wild populations of the Nile crocodile in Zimbabwe, are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitate or range. In Zimbabwe, the Nile crocodile inhabits streams and lakes, primarily under 4900 feet (1500 meters) in altitude, in the Zambezi River watershed (Pooley 1982). Prior to European settlement, Nile crocodiles probably occurred in large numbers in all major river systems in Zimbabwe. Except where habitats have been converted to agricultural land, the Nile crocodile can be found throughout most portions of its historic range within Zimbabwe. In some areas of Zimbabwe, human development has increased available habitat through the creation of lakes and lagoons from damming swift flowing rivers. The creation of Lake Kariba has probably had the greatest positive affect on Nile crocodile populations in Zimbabwe. This man-made lake currently supports a population of 29,000±4,000 Nile crocodiles (Convention on International Trade in Endangered Species of Wild Fauna and Flora, CITES 1983). Today, there are approximately 50,000 Nile crocodiles in Zimbabwe (CITES 1983). Although current population numbers are probably less than historic ones, the Service believes that Zimbabwe's wild Nile crocodile populations are no longer in danger of extinction.

B. Overutilization for commercial, recreational, scientific, or educational purposes. Little is known of crocodile distribution and abundance prior to 1950, although they were seldom hunted (CITES 1983). Some animals were occasionally killed as vermin or from fear of destruction of property and loss of human life, but this was not thought to have substantially affected wild populations. However, wholesale slaughter of the species for their skins took place during the 1950's and many accessible populations became seriously threatened with extinction. With the promulgation of the Wild Life Conservation Act by Zimbabwe early in 1960, the crocodile was recognized as a valuable resource and laws and regulations were introduced to prevent over-exploitation of these animals. Populations generally showed an immediate response to this protection. However, some taking has persisted since that time and public opinion, especially among people on whose land the animal occurs, has generally remained hostile; crocodiles continue to be killed as real or potential problem animals. In addition to threats mentioned above, ranches in Zimbabwe are still dependent on wild eggs for their operations (see the final rule on ranched populations in the same part of today's **Federal Register** for information on ranches in Zimbabwe). Because of these continued threats, the Service believes that reclassification from endangered to threatened reflects the current status of wild Nile crocodiles in Zimbabwe.

C. Disease or predation. None known at this time.

D. The inadequacy of existing regulatory mechanisms. As noted above, crocodiles in Zimbabwe were first protected by the Wild Life Conservation Act in 1960; subsequently, populations underwent substantial increases in number. Currently, crocodiles are covered by Zimbabwe's Parks and Wildlife Act of 1975, which gives ownership of wildlife to landholders on their lands.

As mentioned in the final rule on ranched Nile crocodiles in the same part of today's **Federal Register**, crocodiles in Zimbabwe are regulated by an 11-point policy administered by the Department of National Parks and Wild Life Management (Zimbabwe Department of National Parks and Wildlife Management 1982). In addition to internal legislation and policies, regulating take within Zimbabwe, export of Nile crocodiles are regulated by CITES: Zimbabwe is a party to CITES.

Regulation of take (as discussed above) has been the primary factor in the continuous improvement of Zimbabwe's wild Nile crocodiles since the early 1960's. This improvement has prompted the Service to propose this reclassification.

E. Other natural or manmade factors affecting its continued existence. None known at this time.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this

species in proposing this rule. Based on this evaluation, the preferred action is to reclassify Zimbabwe's wild Nile crocodile populations from endangered to threatened. Criteria for reclassification of a threatened or endangered species are found at 50 CFR 424.11(d). They include extinction, recovery of the species, and error in the original data for reclassification. This rule is based upon evidence that Zimbabwe's wild Nile crocodiles are no longer in danger of extinction. However, because wild populations are still threatened, to some degree, by poaching and taking, and because ranches continue to depend upon wild eggs to maintain their populations, the Service believes that reclassification to threatened is most appropriate. In addition, data are insufficient to demonstrate a complete biological recovery of the species in Zimbabwe; therefore, reclassification to "threatened by similarity of appearance", or delisting, is not appropriate.

Effects of this Rule

If made final, this proposed rule would change the status of wild populations of the Nile crocodile in Zimbabwe from endangered to threatened; therefore, all populations of Nile crocodiles in Zimbabwe would be threatened. As such, those regulations specifically pertaining to section 9(c)(2) of the Act would apply to Zimbabwe's wild Nile crocodiles. Section 9(c)(2) of the Act states that "Any importation into the United States of fish and wildlife shall be permitted, if—

(A) Such fish or wildlife is not an endangered species listed pursuant to section 4 of this Act but is listed in Appendix II of the Convention;

(B) The taking and exportation of such fish and wildlife is not contrary to the provisions of the Convention and all other applicable requirements of the Convention have been satisfied;

(C) The applicable requirements of subsections (d), (e), and (f) of this section have been satisfied; and

(D) Such importation is not made in the course of a commercial activity;

be presumed to be an importation not in violation of any provision of this Act or any regulation issued pursuant to this Act." Therefore, reclassification to threatened will allow for non-commercial import of Zimbabwe's wild Nile crocodiles into the U.S. (e.g., importation of sport-hunt trophies) provided that importation is consistent with the provisions and requirements of CITES (see CITES 1983) and the laws and policies of Zimbabwe (see CITES 1983 and Factor D in the "Summary of Factors Affecting the Species" section of the final rule on ranched Nile crocodiles in the same part of today's **Federal Register**). This proposed rule would not change protection given to other populations of Nile crocodiles that occur outside of Zimbabwe.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments are particularly sought concerning biological or commercial trade impacts on other crocodilians, or other relevant data concerning any threat (or lack thereof) to wild populations of the Nile crocodile in Zimbabwe.

Final promulgation of the regulation on wild populations of the Nile crocodile in Zimbabwe will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of final regulations that differ from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Request must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Office of Endangered Species (see **ADDRESSES** section).

National Environmental Policy Act

See statement in the aforementioned final rule published in today's **Federal Register.**

Literature Cited

Convention on International Trade in Endangered Species of Wild Fauna and Flora. 1983. Amendments to Appendices I and II of the Convention. Proposals submitted pursuant to Resolution Conf. 3.15 on ranching. Annex 5 of Document 4.39. CITES Fourth Meeting of the Conference of the Parties, Gaborone, Botswana. April 19–30, 1983.

Pooley, A.C. 1982. The status of African crocodiles in 1980. Pp. 174–228 In: Proceedings of the 5th Working Meeting of the Crocodile Specialist Group of the Species Survival Commission of the International Union for Conservation of Nature and Natural Resources, IUCN, Gland, Switzerland.

Zimbabwe Department of National Parks and Wildlife Management. 1982. National Parks policy—conservation and management of crocodiles in Zimbabwe. Zimbabwe Sci. News 16(9):214–215.

Author

The primary author of this proposed rule is K. Bruce Jones, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1975 or FTS 235–1975).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations 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. 95–362, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by revising the entry for the Nile crocodile under "Reptiles" on the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
REPTILES							
*	*	*	*	*	*		
Crocodile, Nile	*Crocodylus niloticus*	Africa, Middle East	Entire (except populations in Zimbabwe).	E		N/A	N/A
Crocodile, Nile	*Crocodylus niloticus*	Africa, Middle East	Zimbabwe	T		N/A	17.42(c)
*	*	*	*	*	*		

Dated: June 11, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-13800 Filed 6-16-87; 8:45 am]

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federal register

Wednesday
June 17, 1987

Part IV

Department of Energy

10 CFR Part 1004
Freedom of Information; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 1004

Freedom of Information

AGENCY: Department of Energy (DOE).

ACTION: Proposed Rule.

SUMMARY: This proposed rule revises the DOE regulations on the procedures and principles to be applied in responding to requests for information under the Freedom of Information Act (FOIA) 5 U.S.C. 552. Revisions include updated addresses of organizational entities, and updated guidelines for the schedule of fees associated with processing requests.

DATE: Comments must be received by July 17, 1987.

ADDRESS: Written comments should be sent to: John H. Carter, Chief of Freedom of Information and Privacy Acts, MA–232.1 U.S. Department of Energy, 1000 Independence Avenue, SW Washington, DC 20585, (202) 586–5955

FOR FURTHER INFORMATION CONTACT:

John H. Carter, Chief of Freedom of Information and Privacy Acts, MA–232.1, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5955

Abel Lopez, Office of General Counsel, GC–43, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8618

SUPPLEMENTARY INFORMATION: This proposed rule conforms to the guidelines which the Office of Management and Budget issued, see 52 FR 10011 (March 27, 1987), as directed by the FOIA reform legislation, Pub. L. 99–570, section 1803, signed on October 27, 1986. Additionally, there are many editorial revisions and changes to the existing DOE rule on FOIA which are reflected in this proposed rule.

General Information

The Freedom of Information Reform Act of 1986, Pub. L. No. 99–570, 100 Stat. 3207–49, requires that each agency promulgate regulations to establish a fee schedule to process requests for information and to establish procedures and guidelines to determine when such fees should be waived or reduced. The proposed DOE fee schedule and procedures conform to the guidelines issued by the Office of Management and Budget for agencies to follow in implementing these regulations. The proposed rule revises existing DOE fee schedules and procedures in accordance with the Reform Act and makes other technical and editorial changes to the DOE regulations that implement the FOIA.

Procedural Information

Pursuant to section 501(c) of the Department of Energy Organization Act (DOEOA), the Secretary of Energy has determined that no substantial issue of fact or law exists and that this rule will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Accordingly, the Department of Energy is not bound by the prior notice and hearing requirements of section 501(b), (c) and (d) of the DOEOA, and may promulgate this rule in accordance with section 553 of Title 5, United States Code.

National Environmental Policy Act

The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), requires Federal agencies to prepare detailed statements on major Federal actions significantly affecting the quality of the human environment. The DOE has determined that the regulations clearly do not significantly affect the quality of the human environment; therefore, the preparation of an Environmental Impact Statement is not required.

Executive Order No. 12291

It has been determined that these regulations are not a major rule subject to the requirements of Executive Order No. 12291 (46 FR 13193, February 19, 1981), because they are not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions, or cause significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. These regulations were submitted to the Director of the Office of Management and Budget for a 10 day review period as required by section 3(c)(3) of Executive Order No. 12291. The Director has concluded his review under that Executive Order.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the DOE certifies that sections 603 and 604 of the Act do not apply to these regulations because their promulgation will not have a significant economic impact on a substantial number of small entities, since regulations merely provide for revisions to the existing regulations that conform to the recent amendments to the FOIA that were enacted and technical changes to the regulations.

List of Subjects in 10 CFR Part 1004

Freedom of Information.

Issued in Washington, DC on June 10, 1987.

Harry L. Peebles,

Director of Administration.

For the reasons set forth in the preamble, 10 CFR Part 1004 is revised as follows:

PART 1004—FREEDOM OF INFORMATION

Sec.

1004.1 Purpose and scope.
1004.2 Definitions.
1004.3 Public reading facilities.
1004.4 Elements of a request.
1004.5 Processing requests for records.
1004.6 Requests for classified records.
1004.7 Responses by authorizing officials: Form and content.
1004.8 Appeals of initial denials.
1004.9 Fees for providing records.
1004.10 Handling information of a private business, foreign government, or an international organization.
1004.11 Computation of time.

Authority 5 U.S.C. 552

§1004.1 Purpose and scope.

This part contains the regulations of the Department of Engergy (DOE) that implement 5 U.S.C. 552, Pub. L. 89–487, as amended by Pub. L. 93–502, 88 Stat. 1561, by Pub. L. 94–409, 90 Stat. 1241, and by Pub. L. 99–570. The regulations of this part provide information concerning the procedures by which records may be requested from all DOE offices excluding the Federal Energy Regulatory Commission (FERC). Records of the DOE made available pursuant to the requirements of 5 U.S.C. 552 shall be furnished to members of the public as prescribed by this part. Persons seeking information or records of the DOE may find it helpful to consult with a DOE Freedom of Information Officer before invoking the formal procedures set out below. To the extent permitted by other laws, the DOE will make records available which it is authorized to withhold under 5 U.S.C. 552 whenever it determines that such disclosure is in the public interest.

§1004.2 Definitions.

As used in this part:

(a) "Appeal Authority" means the Office of Hearings and Appeals.

(b) "Authorizing or Denying Official means that DOE officer or employee, as identified by the Directorate of Administration by separate directive, having custody of or responsibility for records requested under 5 U.S.C. 552. In DOE Headquarters, the term refers to The Freedom of Information Officer as defined below and officials who report

directly to either the Office of the Secretary or a Secretarial Officer as also defined below. In the Field Offices, the term refers to the head of a field location identified in § 1004.2(h) and the heads of field offices to which they provide administrative support and have delegated this authority.

(c) " 'Commercial use' request" refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a reguester properly belongs in this category, agencies must determine how the requester will use the documents requested. Moreover, where DOE has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not evident from the request itself, the DOE will seek additional clarification before assigning the request to a specific category.

(d) "Department" or "Department of Energy (DOE)" means all organizational entities which are a part of the executive department created by Title II of the DOE Organization Act, Pub. L. 95–91. This specifically excludes the Federal Energy Regulatory Commission (FERC).

(e) "Direct costs" means those expenditures which the DOE actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(f) "Duplication" refers to the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others. The copy provided must be in a form that is reasonably usable by requesters.

(g) "Educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(h) "Freedom of Information Officer" means the person designated to administer the Freedom of Information Act as the following DOE offices:

(1) Alaska Power Administration, P.O. Box 50, Juneau, AK 99802.

(2) Albuquerque Operations Office, P.O. Box 5400, Albuquergue, NM 87115.

(3) Bartlesville Project Office, P.O. Box 1398, Bartlesville, OK 74005.

(4) Bonneville Power Administration, P.O. Box 3621–S. Portland, OR 97208.

(5) Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439.

(6) Headquarters, Department of Energy, Washington, DC 20585.

(7) Idaho Operations Office, 785 DOE Place, Idaho Falls, ID 83402.

(8) Morgantown Energy Technology Center, P.O. Box 880, Morgantown, WV 26505.

(9) Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518.

(10) Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37831.

(11) Pittsburgh Energy Technology Center, P.O. Box 10940, Pittsburgh, PA 15236.

(12) Richland Operations Office, P.O. Box 550, Richland, WA 99352.

(13) San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612.

(14) Savannah River Operations Office, P.O. Box "A", Aiken, SC 29801.

(15) Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635.

(16) Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101.

(17) Strategic Petroleum Reserve Project Management Office, 900 Commerce Road East, New Orleans, LA 70123.

(18) Western Area Power Administration, P.O. Box 3402, Golden, CO 80401.

(i) "General Counsel" means the General Counsel provided for in section 202(b) of the DOE Organization Act, or any DOE attorney designated by the General Counsel as having responsibility for counseling the Department of Freedom of Information Act matters.

(j) "Headquarters" means all DOE facilities functioning within the Washington metropolitan area.

(k) "Non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis as that term is referenced in § 1004.2(c), and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(l) "Office" means any administrative or operating unit of the DOE, including those in field offices.

(m) "Representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current event or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but agencies may also look to the past publication record of a requester in making this determination.

(n) "Review" refers to the process of examining documents located in response to a commercial use request (see § 1004.2(c)) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(o) "Search" includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. The DOE will ensure that searching for material is done in the most efficient and least expensive manner so as to minimize costs for both DOE and the requester. For example, DOE will not engage in line-by-line search when merely duplicating an entire document would prove the less expensive and quicker method of complying with a request. "Search" will be distinguished, moreover, from "review" of material in order to determine whether the material is exempt from disclosure. Searches may

be done manually or by computer using existing programming.

(p) "Secretarial Officer" means the General Counsel; Assistant Secretary, Management and Administration; Assistant Secretary for Congressional, Intergovernmental, and Public Affairs; Assistant Secretary for International Affairs and Energy Emergencies; Assistant Secretary for Nuclear Energy; Assistant Secretary for Fossil Energy; Assistant Secretary, Conservation and Renewable Energy; Assistant Secretary for Defense Programs; Assistant Secretary for Environment, Safety, and Health; Administrator, Economic Regulatory Administration; Administrator, Energy Information Administration; Director of Energy Research; Director of Civilian Radioactive Waste Management; Director of Minority Economic Impact, and the Inspector General.

(q) "Statute specifically providing for setting the level of fees for particular types of records," at 5 U.S.C. 552(a)(4)(A)(vi), means any statute that specifically requires a government agency, such as the Government Printing Office (GPO) or the National Technical Information Service (NTIS), to set the level of fees for particular types of records, in order to:

(1) Serve both the general public and private sector organizations by conveniently making available government information;

(2) Ensure that groups and individuals pay the cost of publications and other services which are for their special use so that these costs are not borne by the general taxpaying public;

(3) Operate an information dissemination activity on a self-sustaining basis to the maximum extent possible; or

(4) Return revenue to the Treasury for defraying, wholly or in part, appropriated funds used to pay the cost of disseminating government information.

§ 1004.3 Public reading facilities.

(a) The DOE Headquarters will maintain, in the public reading facilities, the materials which are required by 5 U.S.C. 552(a)(2) to be made available for public inspection and copying. The principal public reading facility will be located at the Freedom of Information Office, 1000 Independence Avenue, SW, Washington, DC. A complete listing of other facilities is available from the Freedom of Information Officer at DOE Headquarters.

(b) Each of the designated field offices will maintain in public reading facilities certain materials maintained in the Headquarters facility and other materials associated with the particular field offices.

(c) Each of these public reading facilities will maintain and make available for public inspection and copying current indices of the materials at that facility which are required to be indexed by 5 U.S.C. 552(a)(2) or other applicable statutes.

§ 1004.4 Elements of a request.

(a) *Addressed to the Freedom of Information Officer.* A request for a record of the DOE which is not available in a public reading facility, as described in § 1004.3, shall be addressed to the appropriate Headquarters or field Freedom of Information Officer, Department of Energy, at a location listed in § 1004.2(h) of this part, and both the envelope and the letter shall be clearly marked "Freedom of Information Request." Except as provided in § 1004.4(e), a request will be considered to be received by the DOE for purposes of 5 U.S.C. 552(a)(6) upon actual receipt by the Freedom of Information Officer. Requests delivered after regular business hours of the Freedom of Information Office are considered received on the next regular business day.

(b) *Request must be in writing and for reasonably described records.* A request for access to records must be submitted in writing and must reasonably describe the records requested to enable DOE personnel to locate them with a reasonable amount of effort. Where possible, specific information regarding dates, titles, file designations, and other information which may help identify the records should be supplied by the requester, including the names and titles of any DOE officers or employees who have been contacted regarding the request prior to the submission of a written request. If the request relates to a matter in pending litigation, the court and its location should be identified to aid in locating the documents. If the records are known to be in a particular office of the DOE, the request should identify that office.

(c) *Categorical requests.* (1) Must meet reasonably described records requirement. A request for all records falling within a reasonably specific and well defined category shall be regarded as conforming to the statutory requirement that records be reasonably described if DOE personnel can reasonably determine which particular records are sought in the request. The request must enable the DOE to identify and locate the records sought by a process that is not unreasonably burdensome or disruptive of DOE operations. The Freedom of Information Officer may take into consideration problems of search which are associated with the files of an individual office within the Department and determine that a request is not one for reasonably described documents as it pertains to that office.

(2) Assistance in reformulating a non-conforming request. If a request does not reasonably describe the records sought, as specified in paragraph (c)(1) of this section, the DOE response shall specify the reasons why the request failed to meet the requirements of paragraph (c)(1) of this section and shall invite the requester to confer with knowledgeable DOE personnel in an attempt to restate the request or reduce the request to manageable proportions by reformulation or by agreeing on an orderly procedure for the production of the records. If DOE responds that additional information is needed from the requester to render records reasonably described, any reformulated request submitted by the requester shall be treated as an initial request for purposes of calculating the time for DOE response.

(d) *Nonexistent records.* (1) 5 U.S.C. 552 does not require the compilation or creation of a record for the purpose of satisfying a request for records.

(2) 5 U.S.C. 552 does not require the DOE to honor a request for a record not yet in existence, even where such a document may be expected to come into existence at a later time.

(3) If a requested record is known to have been destroyed or otherwise disposed of, or if no such record is known to exist, the requester shall be so notified.

(e) *Assurance of willingness to pay fees.* A request shall include an assurance (1) to pay whatever fees will be assessed in accordance with § 1004.9; (2) to pay those fees not exceeding some specified dollar amount, or (3) a request for a waiver or reduction of fees. No request shall be deemed to have been received until the DOE has received some valid assurance of willingness to bear fees anticipated to be associated with the processing of the request or a specific request for a waiver or reduction of fees.

(f) *Requests for records or information of other agencies.* (1) Some of the records in the files of the DOE have been obtained from other Federal agencies or contain information obtained from other Federal agencies.

(2) Where a document originated in another Federal agency, the Authorizing Official will refer the request to the originating agency and so inform the

requester, unless the originator agrees to direct release by DOE.

(3) Requests for DOE records containing information received from another agency, or records prepared jointly by DOE and other agencies, will be treated as requests for DOE records except that the Authorizing Official will coordinate with the appropriate official of the other agency. The notice of determination to the requester, in the event part or all of the record is recommended for denial by the other agency, shall cite the other agency Denying Official as well as the appropriate DOE Denying Official if a denial by DOE is also involved.

§ 1004.5 Processing requests for records.

(a) Freedom of Information Officers shall be responsible for processing requests for records submitted pursuant to this part. Upon receiving such a request, the Freedom of Information Officer shall, except as provided in paragraph (c) of this section, ascertain which Authorizing Official has responsibility for, custody of, or concern with the records requested. The Freedom of Information Officer shall review the request, consulting with the Authorizing Official where appropriate, to determine its compliance with § 1004.4. Where a request complies with § 1004.4, the Freedom of Information Officer shall acknowledge receipt of the request to the requester and forward the request to the Authorizing Official for action.

(b) The Authorizing Official shall promptly identify and review the records encompassed by the request. The Authorizing Official shall prepare a written response either (1) granting the request, (2) denying the request, (3) granting it in part and denying it in part, (4) replying with a response stating that the request has been referred to another agency under §§ 1004.4(f) or 1004.6(e).

(c) Where a request involves records which are in the custody of or are the concern of more than one Authorizing Official, the Freedom of Information Officer shall identify all concerned Authorizing Officials, send copies of the request to them and forward the request for action to the Authorizing Official that can reasonably be expected to have custody of most of the requested records. This Authorizing Official shall prepare a DOE response to the requester consistent with paragraph (b) of this section, which shall identify any other Authorizing Official or Officials having responsibility for the denial of records.

(d) *Time for processing requests.* (1) Action pursuant to paragraph (b) of this section shall be taken within 10 working days of receipt of a request for DOE records ("receipt" is defined in § 1004.4(a)), except that, if unusual circumstances require an extension of time before a decision on a request can be reached and the person requesting records is promptly informed in writing by the Authorizing Official of the reasons for such extension and the date on which a determination is expected to be dispatched, then the Authorizing Official may take an extension not to exceed 10 working days.

(2) For purposes of this section and § 1004.8(d), the term "unusual circumstances" may include but is not limited to the following:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the offices processing the request;

(ii) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request, or among two or more components of the Department having substantial subject matter interest therein.

(3) The requester must be promptly notified in writing of the extension, the reasons for the extension, and the date on which a determination is expected to be made.

(4) If no determination has been made at the end of the 10-day period, or the last extension thereof, the requester may deem his administrative remedies to have been exhausted, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be made within the applicable time limit, the responsible Authorizing Official shall nevertheless continue to process the request. If the DOE is unable to provide a response within the statutory period, the Authorizing Official shall inform the requester of the reason for the delay; the date on which a determination may be expected to be made; that the requester can seek remedy through the courts, but ask the requester to forego such action until a determination is made.

(5) Nothing in this part shall preclude the Authorizing Official and a requester from agreeing to an extension of time for the initial determination on a request. Any such agreement shall be confirmed in writing and shall clearly specify the total time agreed upon for the initial determination.

§ 1004.6 Requests for classified records.

(a) All requests for classified records and Unclassified Controlled Nuclear Information shall be subject to the provisions of this part with the special qualifications noted below.

(b) All requests for records made in accordance with this part, except those requests for access to classified records which are made specifically pursuant to the mandatory review provisions of Executive Order 12356 or any successor thereto, shall be automatically considered a Freedom of Information Act request.

(c) Concurrence of the Director of Classification shall be required on all responses involving requests for classified records. The Director of Classification shall be informed of the request by either the Freedom of Information Officer or the Authorizing Official to whom the action is assigned, and shall advise the office originating the records, having responsibility for the records, and consult with such office or offices prior to making a determination under this section.

(d) The written notice of a determination to deny records, or portions of records, which contain both classified material and other exempt material, shall be concurred in by the Director of Classification who shall be the Denying Official for the classified portion of such records in accordance with § 1004.5(c) and § 1004.7(b)(2). If other DOE officials or appropriate officials of other agencies are responsible for denying any portion of the record, their names and titles or positions shall be listed in the notice of denial in accordance with § 1004.5(c) and § 1004.7(b)(2) and it shall be clearly indicated what portion or portions they were responsible for denying.

(e) Requests for DOE records containing classified information received from another agency, and requests for classified documents originating in another agency, shall be coordinated with or referred to the other agency consistent with the provisions of § 1004.4(f). Coordination or referral of information or documents subject to this section shall be effected by the Director of Classification (in consultation with the Authorizing Official) with the appropriate official of the other agency.

§ 1004.7 Responses by authorizing officials: Form and content.

(a) *Form of grant.* Records requested pursuant to § 1004.4 shall be made available promptly, when they are identified and determined to be non-exempt under this Regulation, the Freedom of Information Act, and where

the applicable fees are $15 or less or where it has been determined that the payment of applicable fees should be waived. Where the applicable fees exceed $15, the records may be made available before all charges are paid.

(b) *Form of denial.* A reply denying a request for a record shall be in writing. It shall be signed by the Authorizing Official pursuant to § 1004.5 (b) or (c) and shall include:

(1) *Reason for denial.* A statement of the reason for denial, containing a reference to the specific exemption under the Freedom of Information Act authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld, and a statement of why a discretionary release is not appropriate.

(2) *Persons responsible for denial.* A statement setting forth the name and the title or position of each Denying Official and identifying the portion of the denial for which each Denying Official is responsible.

(3) *Segregation of nonexempt material.* A statement or notation addressing the issue of whether there is any segregable nonexempt material in the documents or portions thereof identified as being denied.

(4) *Adequacy of search.* Although a determination that no such record is known to exist is not a denial, the requester should be informed that a challenge may be made to the adequacy of the search by appealing within 30 calendar days to the Office of Hearings and Appeals.

(5) *Administrative appeal.* A statement that the determination to deny documents made within the statutory time period, may be appealed within 30 calendar days to the Office of Hearings and Appeals.

§ 1004.8 Appeals of initial denials.

(a) *Appeal to Office of Hearings and Appeals.* When the Authorizing Official has denied a request for records in whole or in part or has responded that there are no documents responsive to the request, consistent with § 1004.4(d), or when the Freedom of Information Officer has denied a request for waiver of fees consistent with § 1004.9, the requester may, within 30 calendar days of its receipt, appeal the determination to the Office of Hearings and Appeals.

(b) *Elements of appeals.* The appeal shall be in writing, addressed to the Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, and both the envelope and letter shall be clearly marked "Freedom of Information Appeal." The appeal shall contain a concise statement of grounds upon which it is brought and a description of the relief sought. It should also include a discussion of all relevant authorities, including, but not limited to, DOE (and predecessor agencies) rulings, regulations, interpretations and decisions on appeals and any judicial determinations being relied upon to support the appeal. A copy of the letter containing the determination which is being appealed, shall be submitted with the appeal.

(c) *Receipt of appeal.* An appeal will be considered to be received for purposes of 5 U.S.C. 552(a)(6) upon receipt by the appeal authority.

(d) *Action within 20 working days.* (1) The appeal authority shall act upon the appeal within 20 working days of its receipt, except that if unusual circumstances (as defined in § 1004.5(d)(2)) require an extension of time before a decision on a request can be reached, the appeal authority may extend the time for final action for an additional 10 working days less the number of days of any statutory extension which may have been taken by the Authorizing Official during the period of initial determination.

(2) The requester must be promptly notified in writing of the extension, setting forth the reasons for the extension, and the date on which a determination is expected to be issued.

(3) If no determination on the appeal has been issued at the end of the 20-day period or the last extension thereof, the requester may consider his administrative remedies to be exhausted and seek a review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be issued within the applicable time limit, the appeal will nevertheless continue to be processed; on expiration of the time limit the requester shall be informed of the reason for the delay, of the date on which a determination may be expected to be issued, and of his right to seek judicial review in the United States district court in the district in which he resides or has his principal place of business, the district in which the records are situated, or the District of Columbia. The requester may be asked to forego judicial review until determination of the appeal.

(4) Nothing in this part shall preclude the appeal authority and a requester from agreeing to an extension of time for the decision on an appeal. Any such agreement shall be confirmed in writing by the appeal authority and shall clearly specify the total time agreed upon for the appeal decision.

(e) *Form of action on appeal.* The appeal authority's action on an appeal shall be in writing, and shall set forth the reason for the decision. It shall also contain a statement that it constitutes final agency action on the request and that judicial review will be available either in the district in which the requester resides or has a principal place of business, the district in which the records are situated, or in the District of Columbia. Documents determined by the appeal authority to be documents subject to release shall be made promptly available to the requester upon payment of any applicable fees.

(f) *Classified records and records covered by Section 148 of the Atomic Energy Act.* The Secretary of Energy or his designee will make the final determination concerning appeals involving the denial of requests for classified information or the denial of requests for information falling within the scope of section 148 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2168).

§ 1004.9 Fees for providing records.

(a) *Fees to be charged*—The DOE will charge fees that recoup the full allowable direct costs incurred. The DOE will use the most efficient and least costly methods to comply with requests for documents made under the FOIA. The DOE may contract with private sector services to locate, reproduce and disseminate records in response to FOIA requests when that is the most efficient and least costly method. When doing so, however, the DOE will ensure that the ultimate cost to the requester is no greater than it would be if the DOE itself had performed these tasks. In no case will the DOE contract out responsibilities which the FOIA provides that it alone may discharge, such as determining the applicability of an exemption, or determining whether to waive or reduce fees. Where the DOE can identify documents that are responsive to a request and are maintained for public distribution by other agencies such as the National Technical Information Service and the Government Printing Office, the Department will inform requesters of the procedures to obtain records from those sources.

(1) *Manual searches for records.* Whenever feasible, the DOE will charge for manual searches for records at the salary rate(s) (i.e., basic pay plus 16 percent) of the employee(s) making the search.

(2) *Computer searches for records.* The DOE will charge at the actual direct cost of providing the service. This will include the cost of operating the central

processing unit (CPU) for that portion of operating time that is directly attributable to searching for records responsive to a FOIA request and operator/programmer salary.

(3) *Review of records.* The DOE will charge requesters who are seeking documents for commercial use, for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges will be assessed only for the initial review; i.e., the review undertaken the first time the DOE analyzes the applicability of a specific exemption to a particular record or portion of a record. The DOE will not charge for review at the administrative appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption which is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review would be properly assessable.

(4) *Duplication of records.* The DOE will make a per-page charge for paper copy reproduction of documents. At present, the charge for paper to paper copies will be five cents per page and the charge for microform to paper copies will be ten cents per page. For computer generated copies, such as tapes or printouts, the DOE shall charge the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction or duplication, we shall charge the actual direct costs of producing the document(s).

(5) *Other charges.* It shall be noted that complying with requests for special services such as those listed below is entirely at the discretion of this agency. Neither the FOIA nor its fee structure cover these kinds of services. The DOE will recover the full direct costs of providing services such as those enumerated below to the extent that we elect to provide them:

(i) Certifying that records are true copies;

(ii) Sending records by special methods such as express mail, etc.

(6) *Restrictions on assessing fees.* With the exception of requesters seeking documents for a commercial use, section (4)(A)(iv) of the Freedom of Information Act, as amended, DOE will provide the first 100 pages of duplication and the first two hours of search time without charge. Moreover, DOE will not charge fees to any requester, including commercial use requesters, if the cost of collecting the fee would be equal to or greater than the fee itself. These provisions work together, so that except for commercial use requesters, DOE will not begin to assess fees until after the Department has provided the free search and reproduction. For example, if a request involves two hours and ten minutes of search time and results in 105 pages of documents, DOE will charge for only 10 minutes of search time and only five pages of reproduction. If this cost is equal to or less than $15.00, the amount DOE incurs to process a fee collection, no charges would be assessed. For purposes of these restrictions on assessment of fees, the word "pages" refer to paper copies of a standard agency size which will normally be "8½ x 11" or "11 by 14." Thus, requesters would not be entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or pages of computer printout, however, might meet the terms of the restriction. Similarly, the term "search time" is based on a *manual search.* To apply this term to searches made by computer, the DOE will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of the search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the computer operator conducting the search, DOE will begin assessing charges for computer search.

(7) *Notification of charges.* If the DOE estimates that duplication charges are likely to exceed $25, the requester shall be informed of the estimated amount of fee, unless the requester has previously indicated a willingness to pay the amount estimated by the agency. Such a notice shall offer a requester the opportunity to confer with DOE personnel in order to reformulate the request to reduce the cost of the request.

(8) *Waiving or reducing fees.* The DOE will furnish documents without charge or at reduced charges if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and disclosure is not primarily in the commercial interest of the requester. This fee waiver standard thus sets forth two basic requirements, both of which must be satisfied before fees will be waived or reduced. First, it must be established that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government. Second, it must be established that disclosure of the information is not primarily in the commercial interest of the requester. Where these two statutory requirements are satisfied, based upon information supplied by a requester or otherwise made known to the DOE, the waiver or reduction of a FOIA fee will be granted. In determining when fees should be waived or reduced the Freedom of Information Officer must address the following two factors:

(i) That disclosure of the Information "is in the Public Interest Because it is Likely to Contribute Significantly to Public Understanding of the Operations or Activities of the Government."

(A) The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government";

(B) The informative value of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(C) The contribution to an understanding by the general public of the subject likely to result from disclosure; and

(D) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

(ii) If Disclosure of the Information is or is not Primarily in the Commercial Interest of the Requester.

(A) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(B) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

(b) *Fees to be charged—categories of requesters.* There are four categories of FOIA requesters: Commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. The FOIA prescribes specific levels of fees for each of these categories:

(1) *Commercial use requesters.* When the DOE receives a request for documents appearing to be for commercial use, charges will be assessed to recover the full direct costs

of searching for, reviewing for release, and duplicating the records sought. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduction of documents. Moreover, when the DOE receives a request for documents that is primarily in the commercial interest of the requester, the Act does not require us to consider a request for waiver or reduction of fees based upon an assertion that disclosure would be in the public interest. The DOE will recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records.

(2) *Educational and non-commercial scientific institution requesters.* The DOE will provide documents to requesters in this category for the cost of reproduction only, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

(3) *Requesters who are representatives of the news media.* The DOE will provide documents to requesters in this category for the cost of reproduction only, exclusing charges for the first 100 pages. To be eligible for inclusion in this category, a requester must meet the criteria in § 1004.2(m), and his or her request must not be made for a commercial use. With respect to this class of requesters, a request for records supporting the news dissemination function of the requester shall not be considered to be a request for a commercial use.

(4) *All other requesters.* The DOE will charge requesters who do not fall into any of the above categories fees which recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time will be furnished without charge. Moreover, requests from individuals, for records about themselves filed in DOE systems of records will continue to be processed under the fee provisions of the Privacy Act of 1974.

(5) *Charging interest—notice and rate.* Interest will be charged those requesters who fail to pay fees. The DOE will begin to assess interest charges on the amount billed on the 31st day following the day on which the billing was sent to the requester. Interest will be at the rate prescribed in section 3717 of Title 31 U.S.C. and will accrue from the date of the billing.

(6) *Charges for unsuccessful search.* The DOE will assess charges for time spent searching, even if the search fails to identify responsive records or if records located are determined to be exempt from disclosure. If the DOE estimates that search charges are likely to exceed $25, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer the requester the opportunity to confer with agency personnel in order to reformulate the request to reduce the cost of the request.

(7) *Aggregating Requests.* A requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely to avoid payment of fees. When the DOE believes that a requester or, a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the DOE will aggregate any such requests and charge the appropriate fees. The DOE may consider the time period in which the requests have been made in its determination to aggregate the related requests.

(8) *Advance payments.* Requesters are not required to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(i) The DOE estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250.00. In such cases, the DOE will notify the requester of the likely cost and obtain a satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment.

(ii) A requester has previously failed to pay a fee in a timely fashion (i.e. within 30 days of the date of the billing). The DOE will require the requester to pay the full amount owed plus any applicable interest as provided in paragraph (b)(5) of this section, or demonstrate that he has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before we begin to process a new request or a pending request from that requester.

When the DOE acts under paragraphs (b)(8) (i) or (ii) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denials, plus permissible extensions of these time limits) will begin only after the DOE has received fee payments described above.

(c) *Effect of the Debt Collection Act of 1982 (Pub.L. 97–365).* The DOE will use the authorities of the Debt Collection Act, including disclosure to consumer reporting agencies and the use of collection agencies, where appropriate, to encourage payment of fees.

§ 1004.10 Handling information of a private business, foreign government, or an international organization.

(a) Whenever a document submitted to the DOE contains information which may be exempt from public disclosure, it shall be handled in accordance with the procedures in this section. While the DOE is responsible for making the final determination with regard to the disclosure or nondisclosure of information contained in requested documents, the DOE will consider the submitter's views (as that term is defined in this section) in making its determination. Nothing in this section shall preclude the submission of a submitter's views at the time of the submission of the document to which the views relate, or at any other time.

(b) When the DOE may determine, in the course of responding to a Freedom of Information request, not to release information submitted to the DOE (as described in paragraph (a) of this section, and contained in a requested document) without seeking any or further submitter's views, no notice will be given the submitter.

(c) When the DOE, in the course of responding to a Freedom of Information request, cannot make the determination described in paragraph (b) of this section without having for consideration the submitter's views, the submitter shall be promptly notified and provided an opportunity to submit his views on whether information contained in the requested document (1) is exempt from the mandatory public disclosure requirements of the Freedom of Information Act, (2) contains information referred to in 18 U.S.C. 1905, or (3) is otherwise exempt by law from public disclosure. The DOE shall make its own determinations as to whether any information is exempt from disclosure. Notice of a determination by the DOE that a claim of exemption made pursuant to this paragraph is being denied shall be given to a person

making such a claim no less than seven (7) calendar days prior to intended public disclosure of the information in question. For purposes of this section, notice is deemed to be given when mailed to the submitter at the submitter's last known address.

(d) When the DOE, in the course of responding to a Freedom of Information request, cannot make the determination described in paragraph (b) of this section and, without recourse to paragraph (c) of this section, previously has received the submitter's views, the DOE shall consider such submitter's views and shall not be required to obtain additional submitter's views under the procedure described in paragraph (c) of this section. The DOE shall make its own determination with regard to any claim that information be exempted from disclosure. Notice of the DOE's determination to deny a claim of exemption made pursuant to this paragraph shall be given to a person making such a claim no less than seven (7) calendar days prior to its intended public disclosure.

(e) Notwithstanding any other provision of this section, DOE Offices may require a person submitting documents containing information that may be exempt by law from mandatory disclosure to: (1) Submit copies of each document from which information claimed to be confidential has been deleted; or (2) require that the submitter's views be otherwise made known at the time of the submission. Notice of a determination by the DOE that a claim of exemption is being denied shall be given to a person making such a claim no less than seven (7) calendar days prior to intended public disclosure of the information in question. For purposes of this section, notice is deemed to be given when mailed to the submitter at the submitter's last known address.

(f) Criteria for determining the applicability of 5 U.S.C. 552(b)(4). Subject to subsequent decisions of the Appeal Authority, criteria to be applied in determining whether information is exempt from mandatory disclosure pursuant to Exemption 4 of the Freedom of Information Act include:

(1) Whether the information has been held in confidence by the person to whom it pertains;

(2) Whether the information is of a type customarily held in confidence by the person to whom it pertains and whether there is a reasonable basis therefore;

(3) Whether the information was transmitted to and received by the Department in confidence;

(4) Whether the information is available in public sources;

(5) Whether disclosure of the information is likely to impair the Government's ability to obtain similar information in the future; and

(6) Whether disclosure of the information is likely to cause substantial harm to the competitive position of the person from whom the information was obtained.

(g) When the DOE, in the course of responding to a Freedom of Information request, determines that information exempt from the mandatory public disclosure requirements of the Freedom of Information Act is to be released in accordance with § 1004.1, the DOE shall notify the submitter of the intended discretionary release no less than seven (7) days prior to intended public disclosure of the information in question.

(h) As used in this section, the term "submitter's views" means, with regard to a document submitted to the DOE, an item-by-item indication, with accompanying explanation, addressing whether the submitter considers the information contained in the document to be exempt from the mandatory public disclosure requirements of the Freedom of Information Act, to be information referred to in 18 U.S.C. 1905, or to be otherwise exempt by law from mandatory public disclosure. The accompanying explanation should specify the justification for nondisclosure of any information under consideration. If the submitter states that the information comes within the exemption in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, the submitter shall include a statement specifying why such information is privileged or confidential and, where appropriate, shall address the criteria in paragraph (f) of this section. In all cases, the submitter shall address the question of whether or not discretionary disclosure would be in the public interest.

§ 1004.11 Computation of time.

Except as otherwise noted, in computing any period of time prescribed or allowed by this part, the day of the event from which the designated period of time begins to run is not to be included; the last day of the period so computed is to be included; and Saturdays, Sundays, and legal holidays are excepted.

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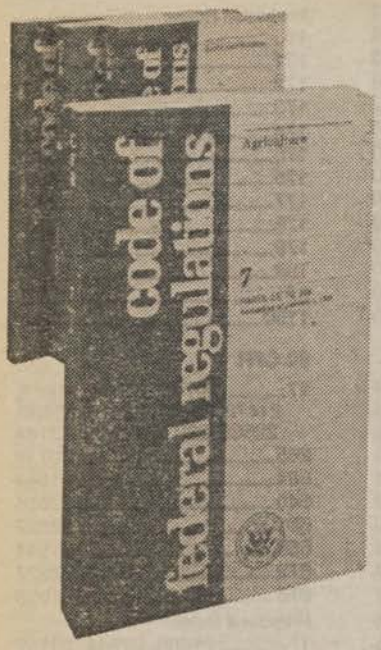

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