



Federal Register

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see
announcement on the inside cover of this issue.



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for \$340.00 per year, or \$170.00 for 6 months, payable in advance. The charge for individual copies is \$1.50 for each issue, or \$1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under **INFORMATION AND ASSISTANCE** in the **READER AIDS** section of this issue.

How To Cite This Publication: Use the volume number and the page number. Example: 52 FR 12345.

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.

WASHINGTON, DC

WHEN: September 29, at 9 a.m.
WHERE: Office of the Federal Register,
 First Floor Conference Room,
 1100 L Street NW., Washington, DC.
RESERVATIONS: Janice Booker, 202-523-5239

Contents

Federal Register

Vol. 52, No. 165

Wednesday, August 26, 1987

ACTION

RULES

Foster grandparent program; not-stipended volunteers, 32132
Senior companion program; not-stipended volunteers, 32133

Agency for International Development

NOTICES

Organization, functions, and authority delegations, 32174

Agricultural Marketing Service

PROPOSED RULES

Egg marketing order
Correction, 32240

Agriculture Department

See also Agricultural Marketing Service; Farmers Home Administration; Forest Service; Soil Conservation Service

NOTICES

Agency information collection activities under OMB review, 32150

Antitrust Division

NOTICES

Competitive impact statements and proposed consent judgments:

Parke, Davis & Co. et al., 32185

National cooperative research notifications:

Portland Cement Association, 32185

Southwest Research Institute, 32186

Aviation Safety Commission

NOTICES

Meetings, 32151

Child Support Enforcement Office

RULES

Federal financial participation:

Costs of incarceration and counsel for indigent absent parents; prohibition, 32130

Commerce Department

See also International Trade Administration; National Oceanic and Atmospheric Administration; Patent and Trademark Office

NOTICES

Agency information collection activities under OMB review, 32151

Committee for the Implementation of Textile Agreements

NOTICES

Cotton, wool, and man-made textiles:

China, 32160

(2 documents)

Export visa requirements; certification, etc.:

Malaysia, 32158

Consumer Product Safety Commission

NOTICES

Meetings:

Cigarette and Little Cigar Fire Safety Interagency Committee, 32161

Defense Department

NOTICES

Agency information collection activities under OMB review, 32162, 32163
(4 documents)

Economic Regulatory Administration

NOTICES

Electric export and import authorizations, permits, etc.:
Central Maine Power Co., 32165

Natural gas exportation and importation:

Pan National Gas Sales, Inc., 32163

Energy Department

See also Economic Regulatory Administration; Western Area Power Administration

NOTICES

Senior Executive Service:

Performance Review Board; membership, 32165

Environmental Protection Agency

RULES

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Sulfiting agents on grapes, 32128

Toxic substances:

Testing requirements—

2-Ethylhexanoic acid; correction, 32240

PROPOSED RULES

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Metalaxyl, 32138

NOTICES

Pesticide programs:

Special review—

Diazinon; hearing, 32168

Pesticides; emergency exemption applications:

Mancozeb, 32167

Executive Office of the President

See Presidential Documents

Family Support Administration

See Child Support Enforcement Office

Farmers Home Administration

RULES

Program regulations:

Chattel security; sale and release, 32119

Federal Aviation Administration

PROPOSED RULES

Air carriers certification and operations:

Traffic alert and collision avoidance system, 32268

NOTICES

Exemption petitions; summary and disposition; correction, 32240

Federal Communications Commission

RULES

Radio stations; table of assignments:

Maine, 32135

PROPOSED RULES

Radio stations; table of assignments:

- Mississippi, 32141
- New Mexico, 32142

Television stations; table of assignments:

- Nevada, 32142
- Pennsylvania [Editorial Note: This document, appearing at page 31795 in the *Federal Register* of August 24, 1987, was listed incorrectly in that issue's table of contents.]

NOTICES

Agency information collection activities under OMB review, 32168

Radio services, special:

- Private land mobile services—
- Specialized mobile radio service; frequency reassignment, 32168

Federal Emergency Management Agency**PROPOSED RULES**

Preparedness:

- Civil defense; State and local emergency management assistance program; State base factor increase, 32140

Federal Home Loan Bank Board**NOTICES**

Meetings; Sunshine Act, 32238

Federal Maritime Commission**NOTICES**Agreements filed, etc., 32169
(2 documents)**Federal Mine Safety and Health Review Commission****NOTICES**

Meetings; Sunshine Act, 32238

Federal Reserve System**PROPOSED RULES**Credit by brokers and dealers (Regulation T):
Exercise of employee stock options, 32138**Federal Retirement Thrift Investment Board****RULES**

Thrift savings plan:

- Methods of withdrawing funds, 32280

Fish and Wildlife Service**PROPOSED RULES**

Endangered and threatened species:

- Colorado squawfish, 32143
- Shortnose sucker and Lost River sucker, 32145

NOTICESEndangered and threatened species permit, 32172
Marine mammal permit applications, 32172**Food and Drug Administration****NOTICES**

Human drugs:

- New drug applications—
- Pentaerythritol tetranitrate, 32170

Forest Service**NOTICES**Environmental statement; availability, etc.:
San Juan National Forest, CO, 32150**Government Printing Office****NOTICES**

Meetings:

- Depository Library Council, 32169

Health and Human Services Department*See* Child Support Enforcement Office; Food and Drug Administration; Social Security Administration**Housing and Urban Development Department****RULES**

Mortgage and loan programs:

- Maximum mortgage limits for high-cost areas, 32126

Interior Department*See also* Fish and Wildlife Service; Land Management Bureau; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office**RULES**

Hearings and appeals procedures:

- Indian probate proceedings—
- Indian trust property or interest in property, succession renouncement, etc.; correction, 32130

NOTICES

Oil, gas, and potash leasing and development:

- Designated Potash Area, Eddy and Lea Counties, NM; correction, 32171

Internal Revenue Service**PROPOSED RULES**

Income taxes:

- Foreign tax credit; income subject to separate limitations, 32242

International Development Cooperation Agency*See* Agency for International Development**International Trade Administration****RULES**

Export licensing:

- Finland; general license G-COM and shorter processing time frames, 32121

NOTICES

Antidumping:

- Electric motors from Japan, 32157
- Potassium chloride from Canada, 32151

Countervailing duties:

- Acetylsalicylic acid (aspirin) from Turkey, 32156

Meetings:

- President's Export Council, 32156

Trade adjustment assistance determination petitions:

- Triton Industries, Inc., et al., 32154

International Trade Commission**NOTICES**

Import investigations:

- Generalized System of Preferences; eligible articles list, etc., 32179
- Moldable/extrudable polyetheresteramide copolymers, 32181
- Nonwoven gas filter elements, 32182
- Plastic fasteners and processes for manufacture, 32183

Interstate Commerce Commission**RULES**

Motor carriers:

- Embargoes; CFR Part removed, 32135

NOTICES**Railroad carriers:**

- Cost ratio for recyclables, 32184
- Railroad operation, acquisition, construction, etc.:
 - Corman, Richard J., 32184
 - R. J. Corman Railroad Co., 32183
 - Southern Railway Co. et al., 32184
- Railroad services abandonment:
 - CSX Transportation, Inc., 32184
 - Norfolk & Western Railway Co., 32183

Justice Department

See Antitrust Division

Labor Department

See Mine Safety and Health Administration

Land Management Bureau**NOTICES**

- Oil, gas and potash leasing and development:
 - Designated Potash Area, Eddy and Lea Counties, NM; correction [Editorial Note: For a document on this subject, see entry under Interior Department.]
- Realty actions; sales, leases, etc.:
 - Oregon; correction, 32240
- Resource management plans, etc.:
 - Shoshone-Eureka Resource Area, NV, 32172
- Survey plat filings:
 - Colorado, 32172

Merit Systems Protection Board**NOTICES**

- Agency information collection activities under OMB review, 32187

Mine Safety and Health Administration**NOTICES**

- Audio noise dosimeter, new personal; acceptance, 32186

Mine Safety and Health Federal Review Commission

See Federal Mine Safety and Health Review Commission

Mississippi River Commission**NOTICES**

- Meetings; Sunshine Act, 32238
(4 documents)

National Oceanic and Atmospheric Administration**RULES**

- Fishery conservation and management:
 - Gulf of Alaska groundfish, 32137
 - Ocean salmon off coasts of Washington, Oregon, and California, 32135

NOTICES

- Permits:
 - Marine mammals, 32157

National Transportation Safety Board**NOTICES**

- Meetings; Sunshine Act, 32239

Nuclear Regulatory Commission**NOTICES**

- Operating licenses, amendments; no significant hazards considerations:
 - Bi-Weekly notices, 32188

Patent and Trademark Office**NOTICES**

- Electronic data dissemination policies and guidelines; correction, 32240

Personnel Management Office**NOTICES**

- Meetings:
 - Combined Federal Campaign, Director's Task Force, 32220

Presidential Documents**ADMINISTRATIVE ORDERS**

- Southern Africa Development Coordination Conference; U.S. assistance (Memorandum of August 12, 1987), 32117

Public Health Service

See Food and Drug Administration

Reclamation Bureau**NOTICES**

- Meetings:
 - Colorado River Floodway Task Force, 32173

Securities and Exchange Commission**NOTICES**

- Self-regulatory organizations; proposed rule changes:
 - American Stock Exchange, Inc., 32223
 - Chicago Board Options Exchange, Inc., 32224
 - Midwest Stock Exchange, Inc., 32229
 - Pacific Stock Exchange, Inc., 32233
 - Philadelphia Stock Exchange, Inc., 32235
- Applications, hearings, determinations, etc.:
 - American Healthcare Systems, 32220
 - Collateralized Mortgage Securities Corp., 32225
 - Eaton Vance Corporate High Income Dollar Fund, L.P. et al., 32227
 - Hartford Global Fund, Inc., 32228
 - Lincoln National Government Securities Fund, Inc., 32229
 - Managed Government Trust, 32229
 - MFS Fund, 32229
 - Oxford First Corp., 32231
 - Public utility holding company filings, 32231
 - Xerox Financial Services Life Insurance Co. et al., 32231

Social Security Administration**RULES**

- Supplemental security income:
 - Resources; accountability and eligibility
Correction, 32240

Soil Conservation Service**NOTICES**

- Environmental statements; availability, etc.:
 - Whites Creek Watershed, MS, 32151

State Department**RULES**

- Freedom of Information Act; implementation:
 - Uniform fee schedule and administrative guidelines, 32122

Surface Mining Reclamation and Enforcement Office**NOTICES**

- Culm combustion projects; abandoned mine land reclamation fee liability, 32173

Textile Agreements Implementation Committee

See Committee for the Implementation of Textile Agreements

Transportation Department

See Federal Aviation Administration

Treasury Department

See also Internal Revenue Service

NOTICES

Agency information collection activities under OMB review, 32236
(2 documents)

Veterans Administration**NOTICES**

Agency information collection activities under OMB review, 32236

Western Area Power Administration**NOTICES**

Power rate adjustments:
Pick-Sloan Missouri Basin Program-Eastern Division, 32166

Separate Parts In This Issue**Part II**

Department of the Treasury, Internal Revenue Service, 32242

Part III

Department of Transportation, Federal Aviation Administration, 32268

Part IV

Federal Retirement Thrift Investment Board, 32280

Reader Aids

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR	799.....	32240
Administrative Orders:	43 CFR	
Memorandums:	4.....	32130
August 12, 1987.....	44 CFR	
32117	Proposed Rules:	
5 CFR	302.....	32140
1650.....	45 CFR	
32280	304.....	32130
7 CFR	1207.....	32132
1924.....	1208.....	32133
32119	47 CFR	
1962.....	73.....	32135
32119	Proposed Rules:	
Proposed Rules:	73 (3 documents).....	32141-
994.....	32142	
32240	49 CFR	
12 CFR	1059.....	32135
Proposed Rules:	50 CFR	
220.....	661.....	32135
32138	672.....	32137
14 CFR	Proposed Rules:	
Proposed Rules:	17 (2 documents).....	32143,
1.....	32145	
32268		
91.....		
32268		
121.....		
32268		
125.....		
32268		
129.....		
32268		
135.....		
32268		
15 CFR		
368.....		32121
369.....		32121
370.....		32121
371.....		32121
372.....		32121
373.....		32121
374.....		32121
375.....		32121
376.....		32121
377.....		32121
378.....		32121
379.....		32121
380.....		32121
381.....		32121
382.....		32121
383.....		32121
384.....		32121
385.....		32121
386.....		32121
387.....		32121
388.....		32121
389.....		32121
390.....		32121
391.....		32121
392.....		32121
393.....		32121
394.....		32121
395.....		32121
396.....		32121
397.....		32121
398.....		32121
399.....		32121
20 CFR		
416.....		32240
21 CFR		
Proposed Rules:		
193.....		32138
561.....		32138
22 CFR		
171.....		32122
24 CFR		
201.....		32126
203.....		32126
234.....		32126
26 CFR		
Proposed Rules:		
1.....		32242
40 CFR		
180.....		32128

THE PARTS AFFECTED IN THE ISSUE

The following table shows the parts affected in the issue...

Part	Page	Column	Line
Introduction	112	1	1
Section 1	112	1	10
Section 2	112	1	20
Section 3	112	1	30
Section 4	112	1	40
Section 5	112	1	50
Section 6	112	1	60
Section 7	112	1	70
Section 8	112	1	80
Section 9	112	1	90
Section 10	112	1	100
Section 11	112	1	110
Section 12	112	1	120
Section 13	112	1	130
Section 14	112	1	140
Section 15	112	1	150
Section 16	112	1	160
Section 17	112	1	170
Section 18	112	1	180
Section 19	112	1	190
Section 20	112	1	200
Section 21	112	1	210
Section 22	112	1	220
Section 23	112	1	230
Section 24	112	1	240
Section 25	112	1	250
Section 26	112	1	260
Section 27	112	1	270
Section 28	112	1	280
Section 29	112	1	290
Section 30	112	1	300
Section 31	112	1	310
Section 32	112	1	320
Section 33	112	1	330
Section 34	112	1	340
Section 35	112	1	350
Section 36	112	1	360
Section 37	112	1	370
Section 38	112	1	380
Section 39	112	1	390
Section 40	112	1	400
Section 41	112	1	410
Section 42	112	1	420
Section 43	112	1	430
Section 44	112	1	440
Section 45	112	1	450
Section 46	112	1	460
Section 47	112	1	470
Section 48	112	1	480
Section 49	112	1	490
Section 50	112	1	500
Section 51	112	1	510
Section 52	112	1	520
Section 53	112	1	530
Section 54	112	1	540
Section 55	112	1	550
Section 56	112	1	560
Section 57	112	1	570
Section 58	112	1	580
Section 59	112	1	590
Section 60	112	1	600
Section 61	112	1	610
Section 62	112	1	620
Section 63	112	1	630
Section 64	112	1	640
Section 65	112	1	650
Section 66	112	1	660
Section 67	112	1	670
Section 68	112	1	680
Section 69	112	1	690
Section 70	112	1	700
Section 71	112	1	710
Section 72	112	1	720
Section 73	112	1	730
Section 74	112	1	740
Section 75	112	1	750
Section 76	112	1	760
Section 77	112	1	770
Section 78	112	1	780
Section 79	112	1	790
Section 80	112	1	800
Section 81	112	1	810
Section 82	112	1	820
Section 83	112	1	830
Section 84	112	1	840
Section 85	112	1	850
Section 86	112	1	860
Section 87	112	1	870
Section 88	112	1	880
Section 89	112	1	890
Section 90	112	1	900
Section 91	112	1	910
Section 92	112	1	920
Section 93	112	1	930
Section 94	112	1	940
Section 95	112	1	950
Section 96	112	1	960
Section 97	112	1	970
Section 98	112	1	980
Section 99	112	1	990
Section 100	112	1	1000

Continued on page 113

The following table shows the parts affected in the issue...

The following table shows the parts affected in the issue...

The following table shows the parts affected in the issue...

The following table shows the parts affected in the issue...

The following table shows the parts affected in the issue...

The following table shows the parts affected in the issue...

The following table shows the parts affected in the issue...

The following table shows the parts affected in the issue...

The following table shows the parts affected in the issue...

The following table shows the parts affected in the issue...

The following table shows the parts affected in the issue...

The following table shows the parts affected in the issue...

The following table shows the parts affected in the issue...

The following table shows the parts affected in the issue...

Federal Register

Vol. 52, No. 165

Wednesday, August 26, 1987

Presidential Documents

Title 3—

Memorandum of August 12, 1987

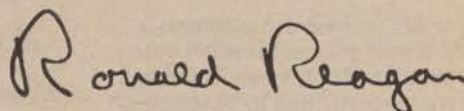
The President

Delegation of Authority for a Certification Concerning the Southern Africa Development Coordination Conference

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 301 of Title 3 of the United States Code, I hereby delegate to the Secretary of State the certification function conferred upon the President by the paragraph entitled "Assistance for Southern Africa" of the Act making supplemental appropriations for the fiscal year ending September 30, 1987, (Public Law 100-71), as it relates to assistance for the members of the Southern Africa Development Coordination Conference.

This memorandum shall be published in the **Federal Register**.



THE WHITE HOUSE,
Washington, August 12, 1987.

[FR Doc. 87-19724

Filed 8-24-87; 4:38 pm]

Billing code 3195-01-M

Presidential Documents

Memorandum of August 13, 1957

Delegation of Authority for a Commission Concerning the Southern Africa Development Coordination Conference

The President

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 5312 of Title 5 of the United States Code, I hereby delegate to the Secretary of State the coordination function conferred upon the President by the paragraph entitled "Assistant Secretary of State for Southern Africa" of the Act making supplemental appropriations for the fiscal year ending September 30, 1957, (Public Law 85-524 as it relates to assistance for the members of the Southern Africa Development Coordination Conference.)

This memorandum shall be published in the Federal Register.

Richard Nixon

THE WHITE HOUSE

Washington, August 13, 1957

Rules and Regulations

Federal Register

Vol. 52, No. 165

Wednesday, August 26, 1987

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1924 and 1962

Sale and Release of Chattel Security

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to further clarify the use of proceeds from the sale of chattel security and the release of chattel security. The need for this action is to provide FmHA chattel borrowers a clear and concise explanation of FmHA's and the borrower's responsibilities in the use of proceeds from the sale of chattel security and the release of chattel security. The intended effect is to avoid any misunderstanding between the borrower and the FmHA County Supervisor on the release of funds and/or chattel security regarding Form FmHA 1962-1.

EFFECTIVE DATE: August 26, 1987.

FOR FURTHER INFORMATION CONTACT: Paul J. Decker, Jr., Chief, Loan Processing Branch, Farm Real Estate and Production Division, Farmers Home Administration, USDA, Room 5449, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC 20250, telephone (202) 447-4572.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor, because there will not be an annual

effect on the economy of \$100 million or more; a major increase in cost 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.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR Part 3015, Subpart V [48 FR 29115, June 24, 1983] and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities," [December 23, 1983], Emergency Loans, Farm Operating Loans, and Farm Ownership Loans are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loan Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940-J.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

- 10.404—Emergency Loans
- 10.406—Farm Operating Loans
- 10.407—Farm Ownership Loans
- 10.416—Soil and Water Loans

Environmental Impact Statement

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

Discussion of Changes

On January 15, 1987, FmHA published in the *Federal Register* [52 FR 1706] a proposed rule giving interested parties until February 17, 1987, to submit comments. On February 18, 1987, FmHA published a statement in the *Federal Register* [52 FR 4913] extending the comment period until March 19, 1987,

upon request from the public. Some borrowers have stated that Form FmHA 1962-1 is difficult to complete and that the purpose of the form is not clear. These points have also been raised in a North Dakota lawsuit. After consideration of the comments, FmHA decided to revise Form FmHA 1962-1 and the related regulations of Subpart B of 1924 and Subpart A of 1962 of this chapter (§§ 1924.57(b)(2), 1924.57(d)(2) and 1962.17) to clarify the borrower's and FmHA's responsibilities in the use of proceeds from the sale of chattel security and the release of chattel security. FmHA wants to accomplish this as soon as possible and is therefore removing the sale and release of chattel security sections from the original *Federal Register* document [52 FR 1706] and move to a separate Final Rule at this time.

Discussion of Comments

Comments received on this subject under *Federal Register* [52 FR 1706] and *Federal Register* [52 FR 4913] as related to § 1924.57 of Subpart B of Part 1924, § 1962.17 of Subpart A of Part 1962 and Form FmHA 1962-1 are discussed below.

There was concern expressed that if a borrower had a Form FmHA 1962-1 on file and the County Supervisor denied a request for a release, would the borrower be given the opportunity to appeal? The borrower would be allowed to appeal. The appeal regulation (Subpart B of Part 1900 of this chapter) provides that when a decision by FmHA is adverse, the borrower must be given the reasons for the decision and the opportunity to appeal.

There were concerns that the five conditions in § 1962.17(b)(1) were dropped. Since Form FmHA 1962-1 is revised and now includes an agreement between FmHA and the borrower regarding the use of proceeds from the sale of chattel proceeds and the release of chattel security for essential family living and farm operating expenses, it is our opinion that these conditions impose restrictions on borrowers which are no longer necessary.

To eliminate any misunderstanding concerning transactions which will result in the making of a new or subsequent loan, a subordination or a transfer and assumption involving chattel security, FmHA has received § 1924.57 (b)(2) and (d)(2).

Subordinations and transfers and assumptions transactions have been added as these transactions, when they involve chattel security, will require the completion of a Form FmHA 1962-1. One concern raised was that the reference to Form FmHA 1962-1 when a new or subsequent loan was made would indicate that Form FmHA 1962-1 was required as part of the completed application package. This reference has been deleted and has been revised to refer the County Supervisor to 7 CFR 1962.17 regarding the release of planned proceeds. The revision clarifies the amount of proceeds which will be released while an appeal is pending when the County Supervisor and the applicant could not agree on the use of the planned proceeds. FmHA's past experience, when an appeal is pending, has indicated that there are instances where the borrower and FmHA could not agree on the amounts which should be released for essential family living and farm expenses. To provide additional guidance to the field, FmHA has revised these sections to where the average essential family living and farm operating expenses will be released during the appeal period and that if the applicant requests larger releases, the applicant must provide justification in writing which will be documented in the case file. FmHA believes these revisions will provide the guidance to its field offices and will allow the field staff to provide sufficient releases to the applicants during the appeal process to carry on the essential operation of the family and the farm.

Another concern raised was that the term "major change in the borrower's operation" is vague and that it should be the responsibility of the County Supervisor to determine if the requested change was major or not. Past experience has indicated there has been some confusion in the field as to what constitutes a major change and in order to address the concern and reduce the confusion, FmHA has provided examples of what constitutes a major change in a borrower's operation and will also require that it will be the County Supervisor's responsibility to advise the borrower if the requested change is major or not. All major changes will require the completion of a new farm and home plan and revised Form FmHA 1962-1 to assure that the major change in the operation will be beneficial and feasible for the borrower.

The language used in Form FmHA 1962-1 is simplified to provide a borrower a clearer understanding of the FmHA requirements and the borrower's responsibilities. Most of these changes

and the revisions of Form FmHA 1962-1, "Agreement for the Use of Proceeds/Release of Chattel Security," were the results of further discussions with the plaintiffs' attorneys in the *Coleman v. Block* case.

List of Subjects

7 CFR Part 1924

Agriculture, Construction and repair, Loan programs—Agriculture.

7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—Agriculture, Rural areas.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for Part 1924 continues to read as follows:

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

Subpart B—Management Advice to Individual Borrowers and Applicants

2. Section 1924.57 is amended by revising paragraphs (b)(2) and (d)(2) to read as follows:

§ 1924.57 Planning.

* * * * *

(b) * * *

(2) If the County Supervisor and the borrower (or transferee) cannot reach an agreement on the planned uses of proceeds on Forms FmHA 431-2 and 1962-1 when a new loan, a subsequent loan, a subordination request, or a transfer and assumption is involved, the loan will not be made (or the subordination/transfer and assumption will not be approved). A Form FmHA 431-2 and Form FmHA 1962-1 must be completed and signed by the applicant/borrower for loan approval (subordination/transfer and assumption). Any appeal will be handled in accordance with Subpart B of Part 1900 of this chapter. When the above transactions are not involved, the borrower will be given the opportunity to appeal in accordance with Subpart B of Part 1900 of this chapter. The notice to the borrower must identify the items on which the County Supervisor and the borrower cannot agree and must explain why the County Supervisor does not agree with the borrower's planned use of proceeds. While any appeal is pending, FmHA must make releases which are average for the area for essential family living and farm operating expenses in accordance with

§ 1962.17 of Subpart A of Part 1962 of this chapter. Those borrowers whose requests are in excess of the average essential family living and/or farm operating expenses must provide justification in writing which will be documented in the case file. In addition, FmHA must make releases for other items on which the borrower and the County Supervisor agree. After the appeal is concluded, the County Supervisor and the borrower will sign a Farm and Home Plan, when applicable, and a Form FmHA 1962-1 which complies with the hearing (or any review) officer's decision. If the borrower refuses, the County Supervisor will give the borrower a copy of the Farm and Home Plan, when applicable, and Form FmHA 1962-1 and will explain that those documents are considered binding by FmHA. Borrowers who do not abide by those documents will be handled under § 1962.18 of Subpart A of Part 1962 of this chapter. If the borrower does not appeal, the County Supervisor will mail the borrower a copy of the completed form along with a cover letter explaining that FmHA considers the form binding.

* * * * *

(d) * * *

(2) Form FmHA 1962-1 will be revised whenever major changes, (examples of major changes are: feeder pigs to sow operation, cow/calf to feeder steer operation, dairy to rowcrop, etc.) in the borrower's operation occur during the year. It is the borrower's responsibility to notify FmHA of any changes which occur and the County Supervisor will be responsible for determining if the requested change is major or not. The Form FmHA 1962-1 will be marked "Revision" and changes noted by crossing out any original estimates and inserting new estimates immediately above. The borrower and the County Supervisor will initial and date revisions to the Form FmHA 1962-1. Also, if the changes would result in a major change in the operation, a new farm plan must be developed. If the borrower and the County Supervisor cannot agree on a revision, the borrower will be given the opportunity to appeal in accordance with Subpart B of Part 1900 of this chapter. The notice to the borrower must identify the items on which the County Supervisor and the borrower cannot agree and must explain why the County Supervisor does not agree with the borrower's planned use of proceeds. While any appeal is pending, FmHA must make releases which would be average for the area for essential family living and farm operating expenses. Those borrowers whose requests are in

excess of the average essential family living and/or farm operating expenses must provide justification in writing which will be documented in the case file. In addition, FmHA *must* make releases for other items on which the borrower and the County Supervisor agree. After the appeal is concluded, the County Supervisor and borrower will sign a Form FmHA 1962-1 which complies with the hearing (or any review) officer's decision. If the borrower refuses, the County Supervisor will give the borrower a copy of the form and will explain that it is considered binding by FmHA. Borrowers who do not abide by the form will be handled under § 1962.18 of Subpart A of Part 1962 of this chapter. If the borrower does not appeal, the County Supervisor will mail the borrower a copy of the completed form along with a cover letter explaining that FmHA considers the form binding.

PART 1962—PERSONAL PROPERTY

3. The authority citation for Part 1962 continues to read as follows:

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

Subpart A—Servicing and Liquidation of Chattel Security

4. Section 1962.17 is amended by revising paragraph (b)(1), introductory text of paragraph (b)(2), and paragraphs (b)(2)(i)(A), (b)(4) and (b)(5) to read as follows:

§ 1962.17 Disposal of chattel security, use of proceeds and release of lien.

(b) * * *
 (1) County Supervisors are authorized to approve or disapprove dispositions of FmHA chattel security in accordance with this subpart. The County Supervisor, with the assistance of the borrower, will complete Form FmHA 1962-1 in accordance with the Forms Manual Insert (available in any FmHA office) to show how, when, and to whom the borrower will sell, exchange, or consume security and use sale proceeds (include milk sale proceeds) and insurance proceeds derived from the loss of security. This includes, for example, sale proceeds on hand and crops in storage. When proceeds from the disposition of security are to be used to pay essential family living or farm operating expenses, County Supervisors must approve the disposition.

(2) Under all circumstances, sales proceeds must be remitted to creditors with liens on the proceeds, in order of priority of those liens. Proceeds which are released by a prior lienholder or

which are in excess of the amount due to prior lienholder and which come to FmHA can be used as follows:

(i) * * *
 (A) The form must provide for releases of proceeds from the sale of crops, livestock, and livestock products planned to be marketed in the regular course of business so that the borrower can pay essential family living and farm operating expenses. Essential expenses are those which are basic, crucial or indispensable. This will not include expenses for expansion of the operation. Excess proceeds must be applied to the FmHA debt or used to preserve existing security. If the sale of crops, livestock, and livestock products planned to be marketed in the regular course of business will not generate enough income to meet all essential family living and farm operating expenses, the borrower may sell other chattel security (such as machinery, equipment, or foundation livestock) to meet those expenses.

(4) If, for any sale, the amount of proceeds actually received is above or below the amount of proceeds planned to be received as shown on Form FmHA 1962-1, the borrower will immediately notify the County Supervisor. If the borrower sells security to a purchaser not listed on the Form FmHA 1962-1, the borrower must immediately notify the County Supervisor of what property has been sold and of the name and business address of the purchaser. Such notification may be by telephone to the County Office, by letter, by visit to the County Office, or any other method the borrower chooses.

(5) If a borrower wants to dispose of chattel security which is not listed on Form FmHA 1962-1 or wants to dispose of chattel security in a way not listed in the "How" section or wants to use proceeds in a way not listed in the "Use of Proceeds" section on Form FmHA 1962-1, the borrower must obtain FmHA's consent before the disposition or before the proceeds are used. FmHA *must* give consent if the change is necessary for the borrower to meet essential family living and farm operating expenses. FmHA *must* also give consent if the conditions set out on the form and in paragraph (b)(2) of this section are met. The borrower may obtain prior consent by telephoning the county office, by letter, by visiting the county office, or by any other method the borrower chooses. When revisions are agreed to over the telephone, the County Supervisor *must* revise the Form FmHA 1962-1 contained in the borrower's case file, initial and date the

change, and mark the form "Revised." The County Supervisor will then either write to the borrower and send a copy of the "Revised" form to the borrower asking the borrower to date and initial the change and return the form to the county office, or the County Supervisor will ask the borrower to date and initial the change the next time the borrower is in the county office. Changes that would result in a major change (examples of major changes are: feeder pig to sow operation, cow/calf to feeder steer operation, dairy to row crop, etc.) in a borrower's operation will always require a visit to the county office so that the County Supervisor and the borrower can complete a new farm and home plan and revise Form FmHA 1962-1. The County Supervisor will be responsible for determining if the requested change is major or not. If a revision cannot be agreed upon, see § 1924.57(d)(2) of Subpart B of Part 1924 of this chapter.

* * * * *
 Dated: July 10, 1987.
 La Verne Ausman,
 Acting Under Secretary for Small Community and Rural Development.
 [FR Doc. 87-19583 Filed 8-25-87; 8:45 am]
 BILLING CODE 3410-07-M

DEPARTMENT OF COMMERCE
International Trade Administration
15 CFR Parts 368 through 399

[Docket No. 70862-7162]
Exports to Finland; General License G-COM and Shorter Processing Time Frames

AGENCY: Export Administration, International Trade Administration, Commerce.
ACTION: Final rule.

SUMMARY: As part of the Department of Commerce initiative to remove unnecessary export licensing requirements for exports to nations protecting strategic goods and technology, Export Administration is removing some of the requirements for a validated license and shortening the processing time frames for validated licenses for exports to Finland. Specifically, Export Administration is amending General License G-COM to authorize shipments of certain U.S.-origin commodities to Finland and revising § 370.14 to subject license applications for Finland to shorter processing time frames. This final rule

also revises the authority citations for 15 CFR Parts 368 through 399.

EFFECTIVE DATE: This rule is effective August 26, 1987.

FOR FURTHER INFORMATION CONTACT: John Black, Regulations Branch, Export Administration, 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. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under Control Numbers 0625-0001 and 0625-0181.

3. 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 a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

4. 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.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to John Black, Office of Technology and Policy Analysis, Export Administration, International Trade Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 368 Through 399

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

Accordingly, Parts 368 through 399 of the Export Administration Regulations are amended as follows:

1. The authority citation for 15 CFR Parts 368, 369, 370, 374, 375, 376, 378, 388, and 391 is revised 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).

2. The authority citation for 15 CFR Parts 371, 372, 373, 379, 385, 386, 387, 389, and 399 is revised 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 of December 28, 1977 (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 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

PART 370—[AMENDED]

3. In the introductory text of § 370.13(a), the second sentence is revised to read as follows:

§ 370.13 Procedures for processing license applications.

(a) *General* * * * Section 370.14 describes shorter processing time frames for certain export license applications for certain selected other countries.

* * *

4. Section 370.14 is amended as follows:

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

B. The introductory text of paragraph (a) is amended by changing the period to a semi-colon at the end of the first sentence and adding to the end of the first sentence the words "these special processing time frames also apply to license applications for shipments to other selected countries.", by revising the words "November 12, 1985" in the second sentence to read "August 26, 1987", and by adding the words "for Finland" immediately after the word "applications" in the second and third sentences;

C. Paragraph (a)(3) is redesignated as paragraph (a)(3)(i) and a new (a)(3) heading and paragraph (a)(3)(ii) are added to read as set forth below;

D. Paragraph (a)(6) is amended by adding the words "or other selected" immediately after the words "COCOM participating" and by revising the words "non-COCOM participating countries" and the words "non-COCOM countries" to read "countries not listed in Paragraph (a)(3) of this section";

E. The introductory text of paragraph (b) is amended by adding the words, "or other selected" immediately after the words "a COCOM participating";

F. The words "or other selected" are added immediately after the words "the COCOM participating" in paragraphs (f)(1)(ii) and (f)(2)(ii).

§ 370.14 Processing license applications for COCOM participating countries and other selected countries.

(a) * * *

(3) Eligible Countries.

* * *

(ii) "Other selected countries" means Finland.

* * *

PART 371—[AMENDED]

5. Section 371.8 is amended by adding "Finland," immediately before "Sweden" in paragraph (a) and by adding "Finland," between "Denmark," and "France," in paragraph (b).

PART 372—[AMENDED]

6. In § 372.11, paragraph (d)(3) is amended by adding the words "Finland or" immediately before the words "COCOM participating".

Dated: August 21, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87-19591 Filed 8-25-87; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF STATE

22 CFR Part 171

Freedom of Information; Revision of Fees, Fee Waiver Policy, and the Law Enforcement Exemption

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule implements certain provisions of the Freedom of Information Reform Act of 1986 (Pub. L. 99-570) regarding fees, fee waivers, and law enforcement records. It codifies the circumstance under which expeditious processing of FOIA requests will be provided. Expeditious processing has been recognized in custom and practice

since 1983 in accordance with Department of Justice guidance. The rule also revises the general fee schedule applicable to all requests under the FOIA, Privacy Act, Ethics in Government Act, and Executive Order 12356 as provided in Part 171.

EFFECTIVE DATE: September 25, 1987.

FOR FURTHER INFORMATION CONTACT: Frank M. Machak, Information and Privacy Coordinator, (202) 647-7740.

SUPPLEMENTARY INFORMATION: The Freedom of Information Reform Act of 1986 (Pub. L. 99-570) amended the Freedom of Information Act (5 U.S.C. 552) by modifying the terms of exemption 7 and by supplying new provisions relating to the charging and waiving of fees. The Reform Act specifically required the Office of Management and Budget to develop and issue a schedule of fees and guidelines, pursuant to notice and comment, which OMB did on January 16. After consideration of comments received, OMB issued the final publication of fee schedule and guidelines implementing certain provisions of the Reform Act on March 27 (52 FR 10012). In addition to the OMB guidelines, the Department of Justice provided agencies with advisory fee waiver policy guidance regarding the Reform Act in keeping with its statutory responsibility to encourage compliance with the FOIA. This guidance was distributed to all agency heads in a memorandum from Assistant Attorney General Stephen J. Markman on April 2, 1987. Finally, based on administrative practice and judicial precedent, the Department of Justice developed guidelines for agencies to use in considering request for expedition of FOIA requests. Since this guidance reflects prior practice, the Department is codifying it in its rules at this time.

On April 20, 1987 (52 FR 12936) the Department published a proposed rule to implement the foregoing with an abbreviated comment period closing on April 23. In view of the considerable public interest and short public comment period, on April 29 (52 FR 15513) the Department issued an amendment to its notice of proposed rulemaking in order to extend the public comment period to May 20, thereby allowing a full thirty (30) days from the date of the original publication.

The Department received numerous comments regarding the proposed rules from the public including professional societies or public interest groups affiliated with the news media, a Member of Congress, and special interest groups or organizations. A variety of Department officials—attorneys, programs managers, and

information officers—gave careful consideration to all comments submitted. Most of the commentators focused on the Department's reliance on OMB's implementing Fee Schedule and Guidelines and on Justice's guidance; the short public comment period (which subsequently was lengthened to a full thirty days); the definitions of the "commercial use request," "educational institution," "noncommercial scientific institution," and "representative of the news media," including "freelance" journalists; and certain paragraphs regarding administrative requirements within the section pertaining to "Categories of Requesters for Fee Purposes (§ 171.14)." The final rule incorporates the changes deemed appropriate as a result of extensive review and consideration of the public comments received. In addition to editorial changes, the substantive revisions have been made to the provisions regarding the definition of "commercial use request"; the requirement regarding the affiliation between "freelance" journalists and a news organization; and the deletion of requirements regarding requesters' providing extensive information concerning themselves vis a vis their eligibility for inclusion in non-commercial categories and the statement of verification (§ 171.14, proposed paragraphs (e) and (f)); and a change in the language regarding the impact on future requests (§ 171.14, proposed paragraph (g), revised paragraph (e)).

This rule does not constitute a "major rule" within the meaning of executive Order 12291. This rule is not subject to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 611) since it will not exert a significant economic impact on a substantial number of small entities. This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Donald J. Bouchard,

Assistant Secretary, Bureau of Administration.

List of Subjects in 22 CFR Part 171

Administrative practice and procedure, Classified information, Freedom of Information, Privacy.

For the reasons set forth in the preamble, portions of Title 22, Chapter I, Subchapter R of the Code of Federal Regulations, are amended as set forth below:

PART 171—AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC

1. The authority citation of Part 171 is revised to read as follows and the authority citations following the sections in Part 171 are removed;

Authority: Sec. 3, Administrative Procedure Act, as amended (Pub. L. 89-478, Stat. 250); The Freedom of Information Act, as amended (5 U.S.C. 552); the Privacy Act (5 U.S.C. 552a); E.O. 12356; the Ethics in Government Act of 1978 (Pub. L. 95-521); 22 U.S.C. 2658 and 3926; and the Freedom of Information Reform Act of 1986 (Pub. L. 99-570).

2. Section 171-6 is revised to read as follows:

§ 171.6 Fees—General.

(a) The Department will charge a duplication fee of \$.25 per page for copies of documents which are identified and made available to an individual pursuant to a request except, that there will be no charge for requests involving costs of \$10.00 or less.

(b) The Department will charge the actual cost of production for copies prepared by computer (such as tapes or printouts), including operator time.

(c) The Department will charge the actual direct costs of producing the document(s) for methods of reproduction or duplication other than those described in paragraphs (a) and (b) of this section.

(d) In those cases when estimated duplication charges are likely to exceed \$25, the Department shall notify requesters of the estimated amount of fees, unless they have indicated in advance their willingness to pay fees as high as those anticipated. Such notice shall offer requesters the opportunity to confer with Department personnel with the objective of reformulating requests to meet their needs at lower costs.

(e) Certification under the official seal that a copy or extract made from an official document is a true copy; the fee for certifying each copy of each page is \$2.00.

(f) The Department shall charge the actual costs for sending documents by special methods such as express mails, etc. when such is requested.

(g) Remittances shall be in the form of either a personal check or bank draft drawn on a bank in the United States, a postal money order, or cash. Remittance shall be made payable to the order of the Treasurer of the United States and delivered or mailed to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Room 1239, Department of State, 2201 C Street, NW., Washington, DC, 20520. The

Department will assume no responsibility for cash sent by mail.

(h) Fees must be paid in full prior to release of requested documents and/or provision of service described above.

(i) A receipt for fees paid will be given only upon request.

(j) See § 171.13 for additional fees chargeable for Freedom of Information requests.

3. Section 171.10 is amended by adding paragraphs (d), (e), (f), (g), (h), (i), (j), and (k) to read as follows:

§ 171.10 Definitions.

* * * * *

(d) The term "direct costs" means those expenditures which the Department 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 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.

(e) The term "search" includes all time spent looking for identifying and retrieving material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. The Department will attempt to ensure that searching for material is done in the most efficient and least expensive manner so as to minimize costs for both the Department and the requester. For example, the Department 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" should be distinguished, moreover, from "review" of material in order to determine whether the material is exempt from disclosure (see paragraph (g) of this section). Searches may be done manually or by computer using existing programming.

(f) The term "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.

(g) The term "review" refers to the process of examining documents located 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.

(h) The term "commercial use request" refers to a request from or on behalf of one who requests for information for a use or purpose that furthers the commercial, trade or profit interest of the requester or the person on whose behalf the request is made. In determining whether a requester belongs within this category, the Department will look at the use to which the requester will make of the documents requested.

(i) The term "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.

(j) The term "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis as that term is referenced in paragraph (h) of this section, 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.

(k) The term "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 events 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 likelihood of publication through that organization, even though not actually employed by it. Likelihood of publication can be demonstrated through, for example, a publication contract or past publication record.

Similarly, the absence of a publication record, especially where the requester has previously received records from the Department as a "representative of the news media" will be taken into account in determining the likelihood of publication.

4. Section 171.11 is amended by revising paragraph (a)(7) to read as follows:

§ 171.11 Exemptions.

(a) * * *

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

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

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

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

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

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

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

* * * * *

5. Section 171.12 is revised to read as follows:

§ 171.12 Time limits.

(a) Whenever possible, the Department will furnish the requested records within 10 days (excluding Saturdays, Sundays, and legal public holidays) of receipt of the request by the Information and Privacy Coordinator, except as cited in § 171.4 of this subchapter.

(b) The Department will consider requests for expeditious handling whenever the requester can demonstrate one of the following:

(1) An individual's life or personal safety would be jeopardized by the

failure to process a request immediately, or

(2) Substantial due process rights of the requester would be impaired by the failure to process immediately, and the information sought is not otherwise available.

6. Section 171.13 is revised to read as follows:

§ 171.13 Fees.

(a) In addition to fees cited in § 171.6, the following shall be applicable with respect to services rendered to members of the public under this subpart:

(1) The following is the range of categories and average grade levels for employees within each category who perform the search and review functions involved in responding to a FOIA request:

(i) Administrative/clerical (to include GS-1 through GS-8 or FS-9); GS-5/5 or FS-9/1.

(ii) Professional (to include GS-9 through GS-13 or FS-5 through FS-2); GS-11/5 or FS-4/4.

(iii) Executive (to include GS-14 through SES or FS-2 through SFS); GS-15/1 or FS-1/1.

(2) The salary rates for these categories will be calculated based on the rates published on the "Department of State Salary Chart" effective at the time that the function was actually performed; copies of this chart are available in the Public Reading Room. The actual fee schedule for each category will be included in the Department's acknowledgment letter.

(3) The costs for manual search include the salary of the category of the employee who actually performed the search function (as provided in paragraph (a)(1) of this section) above plus an additional 16 percent of that rate to cover benefits.

(4) The cost for computer searches will be calculated based on the salary of the category of the employee who actually performed the computer search (as provided in paragraph (a)(1) of this section) plus 16 percent of that rate to cover benefits, in addition to the direct costs of the central processing unit, input-output devices, and memory capacity of the actual computer configuration.

(5) Only requesters who are seeking documents for commercial use will be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. The cost for review will be calculated based on the salary of the category of the employee who actually performed the review (as provided in paragraph (a)(1) of this section) plus 16 percent of the rate to cover benefits. Charges will be

assessed only for the initial review (i.e., review undertaken the first time in order to analyze the applicability of specific exemption(s) to a particular record or portion of a record) and not for review at the administrative appeal level of the exemption(s) already applied.

(6) If records requested under this subpart are stored elsewhere than the headquarters of the Department of State at 2201 C Street, NW., Washington, DC, the special cost of returning such records to the headquarters shall be included in the search costs. These costs will be computed at the actual costs of transportation of either a person or the requested record between the place where the record is stored and Department headquarters when, for time or other reasons, it is not feasible to rely on Government mail service or diplomatic pouch.

(7) When no specific fee has been established for a service, or the request for a service does not fall under one of the above categories due to the amount or size or type thereof, the Information and Privacy Coordinator is authorized to establish an appropriate fee, pursuant to the criteria established in Office of Management and Budget Circular No. A-25, entitled "User Charges."

(b) Where it is anticipated that the fees chargeable under this subpart will amount to more than \$25 and the requester has not indicated in advance her/his willingness to pay fees as high as anticipated, the requester shall be promptly notified of the amount of the anticipated fees or such portion thereof as can readily be estimated. The notice or request for an advance deposit shall extend an offer to the requester to confer with knowledgeable Departmental personnel in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requester. Dispatch of such a notice or request shall suspend the running of the period for response by the Department until a reply is received from the requester.

(c) Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made, or if the Department determines that a record which has been requested, but which is exempt from disclosure under this subpart, is to be withheld.

(d) The Department will begin assessing interest charges on an unpaid bill starting the 31st day following the day on which the billing was sent. The accrual of interest will be stayed upon receipt of the fee, rather than upon its processing by the Department. Interest will be at the rate prescribed in section 3717 of Title 31 U.S.C.

(e) A requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When the Department reasonably 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 Department will aggregate any such requests and charge accordingly.

(f) The Department will not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(1) The Department estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250. Then, the Department will notify the requester of the likely cost and obtain 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; or

(2) Requesters who have previously failed to pay fees charged in a timely fashion (i.e., within 30 days of the date of the billing), the Department will require such requesters to pay the full amount owed plus any applicable interest as provided above or demonstrate that they have, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process new requests or pending requests from such requesters. When the Department acts under paragraph (f)(1) or (2) of this section, the administrative time limit prescribed in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests plus permissible extensions of that time limit) will begin only after the Department has received payments described above.

(g) In accordance with the provisions and authorities of the Debt Collection Act of 1982 (Pub. L. 97-365), the Department reserves the right to disclose information to consumer reporting agencies and to use collection agencies, where appropriate, to encourage repayment.

7. Section 171.14 is added to read as follows:

§ 171.14 Categories of requesters for fee purposes.

There are four categories of requesters: commercial use requesters; educational and non-commercial scientific institutions; representatives of

the news media; and all other requesters. The Act prescribes specific levels of fees for each of these categories. The Department will take into account information provided by requesters in determining their eligibility for inclusion in one of these categories as defined in § 171.10. It is in the requester's best interest to provide as much information as possible to demonstrate inclusion within a non-commercial category of fee treatment.

(a) The Department will assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought for commercial use. Commercial use requesters are entitled to neither two hours of free search time nor 100 free pages of reproduction of documents.

(b) The Department will provide documents to educational and non-commercial scientific institutions for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request being made is 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.

(c) The Department will provide documents to representatives of the news media for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requester must meet the criteria in § 171.10(k), and the request must not be made for a commercial use. In reference 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 that is for a commercial use.

(d) The Department will charge requesters who do not fit into any of the categories above 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 shall be furnished without charge. Moreover, requests from record subjects for records about themselves will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction.

(e) In making determinations under this section, the Department may take into account whether requesters who previously were granted (b), (c), or (d) status did in fact use the requested

records for purposes compatible with the status accorded them.

8. Section 171.15 is added to read as follows:

§ 171.15 Fee waivers and appeals.

(a) Waiver or reduction of any fee provided for in § 171.6 and 171.13 may be made upon a determination by the Chief of the Request Processing Section, Room 1239, Department of State, 2201 C Street, NW., Washington, DC 20520. The Department shall furnish documents without charge or at a reduced charge provided 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, and is not primarily in the commercial interest of the requester. Requests for a waiver or reduction of fees shall be considered on a case-by-case basis.

(1) In order to determine whether 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, the Department will consider the following four factors:

(i) The subject of the request: Whether the subject of the requested records concerns the operations or activities of the government;

(ii) The informative value of the information to be disclosed: Whether the disclosure is likely to contribute to an understanding of government operations or activities;

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested information will contribute to public understanding; and

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities.

(2) In order to determine whether disclosure of the information is not primarily in the commercial interest of the requester, the Department will consider the following two factors:

(i) 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

(ii) 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) The Department will not consider waiver or reduction of fees for requesters (persons or organizations) from whom unpaid fees remain due to the Department for another information access request.

(c) (1) The Department's decision to refuse to waive or reduce fees as requested under paragraph (a) of this section may be appealed to the Chief of the Information Access Branch, Room 1239, Department of State, 2201 C Street NW., Washington, DC 20520. Appeals should contain as much information and documentation as possible to support the request for a waiver or reduction of fees.

(2) Appeals will be reviewed by the Information Access Branch Chief who may consult with other officials of the Department as appropriate. The requester will be notified within thirty working days from the date on which the Department received the appeal.

[FR Doc. 87-19508 Filed 8-25-87; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commission

24 CFR Parts 201, 203, and 234

[Docket No. N-87-1718; FR-2393]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas.

SUMMARY: This Notice amends the listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by (1) revising the limits for Bristol and Kent Counties, Rhode Island and The San Juan/Caguas P.R. MSA; (2) adding new high-cost mortgage limits for Providence and Washington Counties, Rhode Island, Allentown/Bethlehem, Pennsylvania MSA, Reno, Nevada MSA, Biloxi-Gulfport, Mississippi MSA and Pascagoula/Moss Point, Mississippi MSA; and (3) increasing the mortgage limits for the Pittsfield, Massachusetts MSA (Berkshire County).

EFFECTIVE DATE: August 26, 1987.

FOR FURTHER INFORMATION CONTACT:
 For single family: Morris Carter, Director, Single Family Development Division, Room 9270; telephone (202) 755-6720. For manufactured homes: Christopher Peterson, Director, Office of Manufactured Housing and Regulatory Functions, Room 9158; telephone (202) 755-5210; 451 Seventh Street SW., Washington, DC 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA), 12 U.S.C. 1710 through 1749, authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and combination manufactured home lots. The NHA, as amended by the Housing and Community Development Amendments of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, section 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

On May 22, 1984, the Department published a revised list of areas eligible for "high-cost" mortgage limits, which contained several new features (see 49 FR 21520). First, there was no separate listing for condominium units, since these limits are now the same as those for other one-family residences. Second, the listing included instructions on how to compute the high-cost limits for combination manufactured homes and

lots and individual lots, and specified the special high-cost amounts for manufactured homes, combination manufactured homes and lots and individual lots insured in Alaska, Guam and Hawaii. Third, it made changes to the list based on a new definition of "metropolitan area".

On October 1, 1986 (51 FR 34961), the Department published its annual complete listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act and the applicable limits for each area.

This Document

Today's document (1) revises the high-cost mortgage amounts for Bristol and Kent Counties, Rhode Island and The San Juan/Caguas, P.R. MSA; (2) adds new high-cost mortgage limits for Providence and Washington Counties, Rhode Island, Allentown/Bethlehem, Pennsylvania MSA, Reno, Nevada MSA, Biloxi-Gulfport, Mississippi MSA and Pascagoula/Moss Point, Mississippi MSA and; (3) increases the mortgage limits for the Pittsfield, Massachusetts MSA (Berkshire County).

These amendments to the high-cost areas appear in two parts. Part I explains high-cost limits for mortgages insured under Title I of the National Housing Act. Part II lists changes for single family residences insured under section 203(b) or 234(c) of the National Housing Act.

National Housing Act High Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam and Hawaii)

To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .80. For example, Washoe County (Reno, Nevada, MSA) has a one-family limit of \$90,000. The combination home and lot loan limit for Washoe County is \$90,000 x .80, or \$72,000.

B. Section 2(b)(1)(E). Lot only (excluding Alaska, Guam and Hawaii)

To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .20. For example, Washoe County (Reno, Nevada, MSA) has a one-family limit of \$90,000. The lot-only limit for Washoe County is \$90,000 x .20 or \$18,000.

C. Section 2(b)(2). Alaska, Guam and Hawaii limits

The maximum dollar limits for Alaska, Guam and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1).

Accordingly, the dollar limits for Alaska, Guam and Hawaii are as follows:

1. For manufactured homes: \$56,700. (\$40,500 x 140%).
2. For combination manufactured homes and lots: \$75,600. (\$54,000 x 140%).
3. For lots only: \$18,900. (\$13,500 x 140%).

II. Title II:

Updating of FHA Section 203(b), 234(c) and 214 Area Wide Mortgage Limits.

REGION I.—HUD FIELD OFFICE—PROVIDENCE OFFICE

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
Providence, RI, PMSA.....	\$85,850	\$96,700	\$117,500	\$135,550
Newport County.....	83,600	94,150	114,400	132,000
Kent County.....	83,600	94,150	114,400	132,000
Bristol County.....	83,600	94,150	114,400	132,000
Washington County.....	83,600	94,150	114,400	132,000
Providence County.....	83,600	94,150	114,400	132,000

HUD FIELD OFFICE—BOSTON OFFICE

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
Pittsfield, MA, MSA Berkshire County.....	\$85,500	\$96,300	\$117,000	\$135,000

REGION II.—HUD FIELD OFFICE—CARIBBEAN OFFICE

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
Caguas, PR, PMSA: Aguas Buenas Municipio, Caguas Municipio, Cayey Municipio, Cidra Municipio, Gurabo Municipio, San Lorenzo Municipio	\$90,000	\$101,300	\$122,650	\$142,650

REGION III.—HUD FIELD OFFICE—PHILADELPHIA OFFICE

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
Allen/Bethlehem, PA MSA, Lehigh County, Northampton County, Carbon County, Warren County	\$73,400	\$82,650	\$100,400	\$115,850

REGION IV.—HUD FIELD OFFICE—JACKSON OFFICE

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
Biloxi-Gulfport, Mississippi, MSA, Harrison County, Hancock County	\$79,100	\$89,100	\$108,200	\$124,900
Pascagoula/Moss Point, MS, MSA, Jackson County	77,400	87,200	106,000	122,200

REGION IX.—HUD FIELD OFFICE—RENO OFFICE

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
Reno, NV, MSA: Washoe County	\$90,000	\$101,300	\$122,650	\$142,650

Dated: August 19, 1987.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 87-19592 Filed 8-25-87; 8:45 am]

BILLING CODE 4210-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-36145A; 3251-9]

Interim Policy for Sulfiting Agents on Grapes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amendment of policy statement and request for comments.

SUMMARY: This Notice announces amendments to EPA's December 31, 1986, policy statement regarding the use of sulfiting agents on grapes. In addition to the existing policy providing for certification that sulfite-treated grapes will not have detectable sulfite residues, EPA has concluded that there are two other acceptable options that are adequate to protect the public health while allowing the marketing of sulfited grapes of domestic or foreign origin. These alternatives are placarding at the retail level or tagging individual bunches of grapes.

DATES: This amended policy is effective on August 26, 1987. Comments must be submitted by October 26, 1987.

ADDRESS: Comments should be sent, in triplicate if possible, by mail to: Information Services Section, Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

All comments should bear the identifying notation OPP-36145A.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Room 236, at the Virginia address given above from 8:30 a.m. to 4 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail:

Walter C. Francis, Disinfectants Branch, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number:

Room 711, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-3964).

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of December 31, 1986 (51 FR 47240), EPA announced an interim policy regarding the use of sulfiting agents on grapes. That action was prompted by an announcement by the Food and Drug Administration (FDA) in the Federal Register of July 9, 1986, that the use of sulfiting agents as preservatives on raw fruits and vegetables served or sold to consumers was no longer deemed to be generally recognized as safe (GRAS) because some individuals experience severe allergic reactions to sulfite residues on food (51 FR 25021). That action by FDA did not affect the use of sulfiting agents as pesticides on grapes, a use that historically has been treated as if it were GRAS, because the pesticidal use is within EPA's jurisdiction.

In light of FDA's action, and because EPA no longer regards the use of sulfiting agents on grapes as if it were GRAS (for the reasons set forth by FDA with regard to preservative uses), nor has established a tolerance for sulfite residues in or on grapes, EPA decided to adopt certain interim measures to inform and protect sulfite sensitive individuals until a tolerance or some other appropriate clearance could be established. These interim measures were effective December 31, 1986, and

were intended to permit shipment of sulfite-treated grapes for one year.

The December 1986 policy statement stated:

1. Residues of sulfites (determined as sulfur dioxide) on grapes must be below the current level of detection under the modified Monier-Williams procedure [i.e., less than 10 parts per million (ppm)] when the grapes are offered for entry into the United States or are otherwise introduced into interstate commerce. If residues are maintained at a level less than 10 ppm, the use of sulfites as a pesticide on grapes will not be regarded as rendering the grapes adulterated.

2. The shipping containers of both foreign and domestic grapes must be labeled in accordance with the provisions of section 403(1) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 343(1), which requires that shipping containers are to be labeled when a raw agricultural commodity has received postharvest pesticide treatment.

3. Each domestic or foreign shipper must have a certification program acceptable to FDA to insure that sulfite residue levels will be less than 10 ppm. FDA will monitor this program to assure compliance.

4. Any shipment found to have detectable levels of sulfur dioxide residues (10 ppm or higher) will be deemed to be adulterated and subject to seizure or detention by FDA.

5. Any shipment of sulfite-treated grapes not covered by a certification program will be deemed to be adulterated and subject to seizure or detention by FDA.

II. Reasons for Policy Change

EPA's interim policy has imposed restrictions on a postharvest use of sulfiting agents which has been practiced for many years, and which grape producers allege is essential to grape production. EPA's policy was intended to be responsive to the needs of growers by allowing the continued marketing of domestic and foreign grapes. At the same time, the measures chosen were designed to protect the health of sulfite-sensitive individuals.

Certification programs were developed by Chilean exporters between January and April 1987 and California shippers beginning in June 1987. However, information developed by the California table grape industry, and verified by FDA through its enforcement of the California certification program, indicates that there are significant cost and logistical difficulties associated with continuation of the California certification program.

Furthermore preliminary evidence developed by the California table grape industry indicates that repeated sulfite treatment during long-term storage of grapes, necessary to even out the distribution of grapes and make them available through the fall and early winter, may result in sulfur dioxide residues in or on the grapes that would be detectable (10 ppm or higher) and could be present at levels significantly higher than 10 ppm.

III. Amendment to Policy

Because of the difficulties that have developed during the course of the California certification program and the possibility of detectable residues of sulfur dioxide in or on California grapes, and other domestic and foreign grapes, EPA (in consultation with FDA) has developed an approach incorporating the following measures as alternatives to the certification provisions set forth in the December 1986 interim policy:

1. The shipment or sale of sulfite-treated grapes that contain detectable residues of sulfites (determined as sulfur dioxide) into and within the United States will not be deemed to be an actionable violation of the Federal Food, Drug, and Cosmetic Act (FFDCA) if the domestic or foreign shipper and seller comply with one of the following alternatives:

a. The shipper has assured EPA that it has entered into a written agreement with the retail seller of the grapes that placards will be posted at the retail point of sale, and placards are, in fact, posted at the retail point of sale; or

b. The shipper implements a tagging program in which no less than 40 percent of the individual bunches of treated grapes in a given lug or box of grapes are labeled with a stem tag and the grapes are, in fact, so labeled at the retail point of sale. (EPA has determined that this percentage is sufficient to alert the consumer that all the bunches have been sulfite-treated.)

2. Placards or stem tags must state clearly and conspicuously:

"Grapes have been treated with sulfites."

A phrase such as "to insure freshness" or "to insure quality" may follow the mandatory message.

3. Any shipment or delivery of sulfite-treated grapes with detectable levels of sulfites (determined as sulfur dioxide) (10 ppm or higher) that is not in compliance with a placarding or tagging program that conforms to this policy statement will be deemed to be a shipment or delivery of adulterated food and subject to appropriate enforcement action by FDA.

In its December 31, 1986 notice, EPA concluded that a certification program to insure that residues of sulfites (determined as sulfur dioxide) in or on grapes below 10 ppm would alleviate concern for sulfite-sensitive individuals, while permitting the shipment of sulfite-treated grapes into and within the United States. EPA now has decided to allow the placarding and tagging options because the Agency believes that if sulfite-sensitive individuals are able to see placards or tags at the point of sale, they will be alerted to the possibility of detectable residues of sulfur dioxide. Sulfite-sensitive consumers will be able to avoid buying treated grapes and, therefore, will not be at risk.

In consideration of the problems of California growers for the remainder of the 1987 growing season, the amendments to the December 1986 policy announced by this document are immediately effective. The interim policy statement, as amended, will expire December 31, 1987. EPA is considering extending this interim policy until May 1989. This extension would provide time for the grower community to evaluate and implement technical alternatives to current sulfiting practices. Public comment is invited on the interim policy and the proposed extension date. While the policy statement is in effect, EPA and FDA will work jointly to assure that domestic and foreign grape shippers adhere to it. In addition, EPA will continue to consider the establishment of a tolerance for sulfur dioxide in or on grapes and registration of sulfiting agents under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act.

IV. Request for Comments

The EPA requests comments within 60 days on its amended interim policy and any impact and consequences to grape growers, grape distributors, food retailers, or grape consumers. EPA has already received a number of comments expressing strong views on the placarding or tagging of grapes at the retail level. Although these amendments are effective August 26, 1987, comments received in response to this notice, as well as an assessment of the progress toward establishing a permanent tolerance or other clearance for the use of sulfiting agents in or on grapes, will be considered in any future modification to these interim measures.

Dated: August 20, 1987.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.
[FR Doc. 87-19523 Filed 8-25-87; 8:45 am]

BILLING CODE 5560-50-M

DEPARTMENT OF THE INTERIOR**Office of the Secretary****43 CFR Part 4****Department Hearings and Appeals Procedures; Indian Trust Property, etc.**

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Final rule; correction.

SUMMARY: This rule corrects Departmental regulation 43 CFR 4.202 *General authority of administrative law judges* in order to reinstate provisions previously contained in that regulation which were omitted inadvertently in the final rule published October 2, 1986 (51 FR 35219). Three asterisks should have appeared after the last word in the published final rule to indicate that the remainder of the paragraph is unchanged. Correction is made also with respect to typographical errors which appear in the final rule.

EFFECTIVE DATE: November 3, 1986.

FOR FURTHER INFORMATION CONTACT:

Frances A. Patton, Special Counsel to the Director, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203; Telephone: (703) 235-3810 (not toll free).

Dated: August 11, 1987.

Earl Gjelde,

Chief Operating Officer.

PART 4—[AMENDED]

Accordingly, 43 CFR 4.202 is correctly revised to read as follows:

§ 4.202 General authority of administrative law judges.

Administrative law judges shall determine the heirs of Indians who die intestate possessed of trust property, except as otherwise provided in §§ 4.205(b) and 4.271; approve or disapprove wills of deceased Indians disposing of trust property; accept or reject full or partial renunciations of interest in both testate and intestate proceedings; allow or disallow creditors' claims against estates of deceased Indians; and decree the distribution of trust property to heirs and devisees, including the partial distribution to known heirs or devisees where one or more potential heirs or devisees are missing but not presumed dead, after attributing to and setting aside for such missing person or persons the share or shares such person or persons would be entitled to if living. They shall determine the right of a tribe to take inherited interests and the fair market value of the interests taken in appropriate cases as provided by statute. They shall hold hearings and issue recommended decisions in matters referred to them by

the Board in the Board's consideration of appeals from administrative actions of officials of the Bureau of Indian Affairs.

[FR Doc. 87-19562 Filed 8-25-87; 8:45 am]

BILLING CODE 4310-79-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Office of Child Support Enforcement****45 CFR Part 304****Child Support Enforcement Program; Prohibition of Federal Funding of Costs of Incarceration and Counsel for Indigent Absent Parents**

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: This rule amends § 304.23 to specify that Federal funding under title IV-D of the Social Security Act for costs of incarceration of absent parents in child support enforcement cases and costs of counsel for indigents in IV-D actions is not available. In addition, § 304.27, which concerns Federal funding prior to December 31, 1975, is deleted because it is obsolete.

EFFECTIVE DATE: August 26, 1987.

FOR FURTHER INFORMATION CONTACT:

Joyce Linder, (202) 245-1773.

SUPPLEMENTARY INFORMATION:**Background***Costs of Incarceration and Providing Counsel for Indigent Absent Parents*

The Senate Committee on Finance, in its report on H.R. 4325, which became the Child Support Enforcement Amendments of 1984, stated: "It is not the intent of the Congress to match all costs that might be related to operating a child support enforcement program. For example, the Committee believes Federal matching should not be available for expenditures related to incarceration of delinquent obligors and providing defense counsel for absent parents." (See S.Rep. No. 98-387, 98th Cong., 2d Sess., p. 23.)

Periodically, through the years, States have requested that the costs of incarceration of delinquent obligors and of defending indigent absent parents in IV-D cases should be reimbursed, OCSE's policy since the inception of the program has been that costs of incarceration of delinquent obligors and costs of defense counsel are not necessary and reasonable costs associated with the proper and efficient

administration of the Title IV-D program.

Furthermore, there is no statutory authority for payment of such costs. These regulations add such costs to the list of expenditures for which Federal financial participation is not available.

Federal Funding in the Operation of the Child Support Enforcement Program in the Absence of an Assignment

Current regulations at § 304.27 make Federal funding available at the applicable rate for expenditures made under an approved IV-D State plan until December 31, 1975, irrespective of the requirement of an assignment of rights to support. Furthermore, § 304.27(b) states that this section remains in effect until December 31, 1975. Because it was repealed as of the close of business on that date, we are deleting this obsolete section.

We published a Notice of Proposed Rulemaking in the *Federal Register* on June 6, 1986 (51 FR 20673). The comments received on the proposed rule and our response to the comments are discussed below.

Statutory Authority

This regulation is implemented under the authority granted to the Secretary by sections 454(13) and 1102 of the Social Security Act (the Act). Section 454(13) of the Act requires States to comply with such requirements and standards as the Secretary of the Department of Health and Human Services determines to be necessary for the establishment of an effective Title IV-D program. Section 1102 of the Act requires the Secretary to publish the regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act.

Regulatory Provisions

In enacting Title IV-D of the Act in 1975, Congress did not intend that every expense incurred by the State in enforcing child support obligations would be reimbursable by Federal funding. In fact, Congress expected "the States to continue to devote to this purpose (law enforcement) at least as much non-Federal funding as they currently provide." S.Rep. No. 93-1356, 93rd Cong., 2nd Sess., p. 50. Incarceration is a punishment for violation of State and local laws in general, not just those related to child support enforcement. Imposing a jail sentence for willful refusal to abide by a court order to pay support promotes respect for the laws and the judicial decisions of the State and its courts. Therefore, we believe that payment for

the costs of incarceration is entirely a responsibility of State and local governments and is not subject to Federal funding under Title IV-D of the Act.

Title IV-D of the Act was enacted for the purpose of enforcing the support obligations owed by absent parents. Nowhere in the Act nor in any legislative history explaining the IV-D program is there language providing funding for costs incurred in connection with the defense of absent parents who have failed to support their children. In fact, as stated previously, Congress indicated in connection with the Child Support Enforcement Amendments of 1984 that Federal funding should not be available for these costs. Such funding would be antithetical to the purpose of the program, i.e., to ensure that children receive the support to which they are entitled. A defense attorney's function is to promote the best interests of the client, which may actually be to limit or avoid imposition of support liability.

To make these policies explicit, we are amending § 304.23 by adding a new paragraph (i) to prohibit Federal funding for expenditures resulting from the jailing of absent parents in IV-D cases and a new paragraph (j) to prohibit Federal funding for costs of counsel for indigent defendants in IV-D actions.

We are deleting § 304.27, Federal financial participation in the operation of the Child Support Enforcement Program in the absence of an assignment, because it is obsolete.

Response to Comments

We received six comments in response to the Notice of Proposed Rulemaking. Two private attorneys, two attorneys from a County Domestic Relations Court, one State agency and one private individual submitted comments.

1. *Comment:* The proposed rule should be rejected because it prohibits IV-D funding for the costs of obtaining counsel for indigent absent parents. Public defenders' offices are understaffed and overburdened and as a result, indigents are often excused because they cannot afford representation. Therefore, IV-D funds should be available for defense counsel for indigent absent parents.

Response: While we agree that indigent absent parents may be entitled to representation, title IV-D of the Act was enacted for the purpose of establishing and enforcing the support obligations owed by absent parents, not for defending against the establishment and enforcement of support obligations. As noted earlier, Senate Finance Committee Report (H.R. 4325) indicates

that Congress believes that Federal matching should not be available for expenditures related to providing defense counsel for absent parents. Finally, Title IV-D funding is not available to State or local governments for activities which are beyond the scope of activities required under Title IV-D of the Act. Defending persons who owe support is not a IV-D activity and therefore, IV-D funds are not available for this activity.

2. *Comment:* Since approximately half of the States require, by statutory or case law, that counsel must be provided to indigent defendants in paternity cases, and since IV-D funding is available for part of the paternity determination process such as scientific bloodtesting, there is no justification for prohibition of payment for costs of counsel for indigent defendants in paternity cases.

Response: Federal funding is available for part of the paternity determination process including bloodtesting. However, these costs result in the production of evidence that can be used to settle disputed paternity cases or can be introduced in court to show a likelihood of parentage. The results are objective evidence which can be used to "establish" the support order. Lawyers fees for the defense do not contribute to the "establishment or enforcement" of support. Therefore, defending child support obligors or accused fathers serves no legitimate IV-D purpose.

3. *Comment:* By refusing to fund the costs for defense in paternity cases, we are in violation of our own regulations at § 304.20(b)(2)(ii).

Response: Regulations at § 304.20(b)(2)(ii) make Federal financial participation available for services and activities which are determined to be necessary expenditures properly attributable to the Child Support Enforcement program including court or other actions to establish paternity pursuant to procedures established under State statutes or regulations having the effect of law. As stated previously, defending persons who owe support is not a IV-D activity and therefore is not a necessary expenditure attributable to the functions of the Child Support Enforcement program which is to establish and enforce child support obligations. As explained above, while some actions to establish paternity, such as bloodtesting costs, are funded under existing regulation, defense of indigent absent parents does not fall under the same classification.

4. *Comment:* Since defendants in paternity cases "do not become parents unless or until a court determines they are", the Senate Finance Committee's

statement that Federal matching should not be available for expenditures related to providing defense counsel for absent parents does not apply to those whose parental status is still in doubt.

Response: The suggestion that "putative fathers" are not "parents" is deceptive. Court ordered obligations should not be confused with the common law duty to support one's dependents whether compelled to do so by court order or not. The intent of the Senate Finance Committee's discussion on which expenditures should be excluded from Federal financial participation is to exclude Federal matching for the costs of providing defense counsel for anyone who may owe a support obligation.

Paperwork Reduction Act

This regulation contains no information collection requirements that are subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this regulation will not result in significant impact on a substantial number of small entities. The primary impact is on State governments and political subdivisions and we believe that this impact will be nominal because the rule merely puts in regulation longstanding OCSE policy.

Executive Order 12291

The Secretary has determined, in accordance with Executive Order 12291, that this rule does not constitute a "major" rule. A major rule is one that is 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 the United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

The rule is expected to have an insignificant impact on State and Federal expenditures because it only specifies in regulation current OCSE policy.

List of Subjects in 45 CFR Part 304

Child welfare, Grant programs/social programs.

PART 304—[AMENDED]

For the reasons discussed above, 45 CFR Part 304 is amended as follows:

1. The authority citation for Part 304 continues to read as set forth below:

Authority: 42 U.S.C. 651-658, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396(d)(2), 1396b(o), 1396b(p) 1396(k).

2. 45 CFR 304.23 is amended by adding introductory text and new paragraphs (i) and (j) to read as follows:

§ 304.23 Expenditures for which Federal financial participation is not available.

Federal financial participation at the applicable matching rate is not available for:

(i) Any expenditures for jailing of parents in child support enforcement cases.

(j) The costs of counsel for indigent defendants in IV-D actions.

§ 304.27 [Removed and Reserved]

3. 45 CFR 304.27 is removed and reserved.

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Date: April 24, 1987.

Wayne A. Stanton,
Director, Office of Child Support Enforcement.

Approved June 1, 1987.

Otis R. Bowen,
Secretary.

[FR Doc. 87-19581 Filed 8-25-87; 8:45 am]

BILLING CODE 4190-11-M

ACTION**45 CFR Part 1207****Senior Companion Program; Non-Stipended Volunteers**

AGENCY: ACTION.

ACTION: Final rule.

SUMMARY: These are the final rules implementing the provisions included in Pub. L. 99-551, the 1986 amendments to the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93-113, regarding volunteers serving without stipends in the Senior Companion Program. Certain revisions have been made in response to comments and suggestions from project staff, sponsors, and other members of the public.

DATE: This regulation shall take effect on October 13, 1987.

FOR FURTHER INFORMATION CONTACT: C. Wade Freeman, Assistant Director,

Older American Volunteer Programs, ACTION, 806 Connecticut Avenue, NW., M-1006, Washington, DC 20525, (202) 634-9355.

SUPPLEMENTARY INFORMATION:**I. Description of the Rule**

This rule responds to a new provision of the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93-113, encouraging the recruitment and placement of persons aged 60 and over, who are not low-income, as non-stipended volunteers to augment the services of volunteers mobilized through the Senior Companion Program. The Senior Companion Program (SCP) is described in the Catalog of Federal Domestic Assistance under reference Number 72.008. Reference is also made to the Retired Senior Volunteer Program, Number 72.006.

The purpose of the regulation is to:

(1) Open opportunities for and to tap the unused resources of Older Americans;

(2) Expand needed services to unserved and underserved populations.

The regulation prescribes: cooperative responsibilities between a local Senior Companion Program (SCP) project and a local Retired Senior Volunteer Program (RSVP) project under circumstances where they are co-located in a given community setting; equal treatment of both groups of volunteers including training, supervision, etc.; freedom from competition between stipended and non-stipended volunteers for available assignments, support, etc.; and other conditions relating to the service and benefits of non-stipended volunteers.

II. Discussion of Comments

The Agency has considered the comments received and has determined to adopt the proposed rule with some modifications. Discussed below are the major public comments received by the Agency in response to its proposed rule (52 FR 8479, March 18, 1987).

The Agency received several comments on this proposed rule, the majority of which pertained to the conditions of service (§ 1207.3-7). Some respondents indicated that the current language was unclear regarding the role of an RSVP project co-located in the same community with an SCP project. Objections were raised to the inclusion of the limitation that only RSVP projects "with programs serving the frail elderly or children with special or exceptional needs" be designated as hosts and managers of non-stipended volunteers as exceeding legislative intent. A small number urged that both local RSVP and SCP projects be permitted to recruit and

place non-stipended volunteers in the same community area. A few respondents (4) raised questions regarding ACTION's role in resolving possible disputes between active co-located projects. These asked for clarification and an indication as to which office in ACTION would exercise the role of arbiter. The following is the Agency response to the foregoing comments, and the resulting modifications.

The intent of the regulation is to meet the purpose of the legislative changes of Pub. L. 99-551; maintain the integrity of SCP and safeguard the ability of RSVP projects to meet their local programming objectives; and to minimize confusion and competition for volunteers. A cooperative working relationship between two co-located OAVP projects continues to be imperative.

Consequently, § 1207.3-7(b)(1) has been modified to read as shown and paragraph (b)(2) has been deleted in its entirety.

Clarification of some segments of paragraph (b)(3) (renumbered paragraph (b)(2) in the final rule) was requested and changes were made as shown.

Several respondents questioned the ability of projects to provide equal treatment given previous allegations of elitism among non-stipended volunteers, particularly where separate placements were arranged. However, no changes to paragraph (b)(3)(ii) or (b)(3)(v) were requested and none have been made.

Comments focused on who would provide training, supervision, physical examinations, liability insurance, smocks (where needed) and transportation. No change was requested and none will be made to paragraph (b)(3)(iii).

Costs for the non-stipended volunteers can be borne by the volunteer station or by the project. If the project pays for the cost of such items as insurance, transportation, and physicals, other than Federal or non-Federal match funds must be used.

In the absence of a co-located RSVP project, or if such a project is unable or unwilling to provide the prescribed management support, the task will be undertaken by the SCP project. In that case, the regulations referred to in paragraph (b)(3)(iv) are those of the SCP program as provided in the SCP Operations Handbook.

Non-stipended volunteers serving SCP volunteer stations and clients will be encouraged but not required to serve 20 hours per week and 50 weeks per year; and to the extent possible will serve a minimum of 2 clients on a regular basis. Several comments were received asking

for a clarification of intent, indicating that the likelihood of non-stipended volunteers serving 20 hours per week for 50 weeks was extremely small. The agency concurs and has modified paragraph (b)(3)(vi) accordingly.

All comments on paragraph (c), "Funding", were submitted by ACTION field staff dealing with practical administrative concerns. The stated restrictions on sources of funding were intended to protect the funding of traditional, stipended volunteers under SCP and the integrity of the SCP volunteer delivery system. Paragraph (c) was modified accordingly.

ACTION has determined that this rule is not a major rule as defined by Executive Order 12291. The rule will not result in any of the following:

1. Any effect on the economy;
2. Any increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
3. Any 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.

Pursuant to section 3(c)3 of E.O. 12291, entitled "Federal Regulation," the required review process has been completed by the Director of the Office of Management and Budget.

List of Subjects in 45 CFR Part 1207

Aged, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

PART 1207—[AMENDED]

1. The authority citation for 45 CFR Part 1207 is revised to read as follows:

Authority: Secs. 211 (d), (e); 212, 213, 221, 222, 223, 402(14) and 420 of Pub. L. 93-113, 87 Stat. 402, 403, 404, 407 and 414, sec. 213 of Pub. L. 97-35, 97 Stat. 487, 42 U.S.C. 5011 (b) (d) and (e); 5012, 5021, 5022, 5023, 5042(14), 5060 and 5013.

2. Accordingly, 45 CFR Part 1207 is amended by adding 1207.3-7 to read as follows:

§ 1207.3-7 Non-stipended volunteers

(a) *Purpose:* Projects are encouraged to enroll persons aged 60 and over, who are not low-income, as non-stipended volunteers in order to:

(1) Open opportunities for and tap the unused resources of older Americans, and

(2) Expand needed services to unserved and underserved populations.

(b) *Conditions of Service:* (1) Over-income persons, age 60 or over, may not be enrolled in SCP projects as non-stipended volunteers in communities

where a Retired Senior Volunteer Program (RSVP) project is available and the RSVP project is willing and able to assume the management role of placing the volunteer at an SCP volunteer station. When a Senior Companion project is contacted by an individual expressing an interest in serving as a non-stipended volunteer, the project shall contact the ACTION State Office for its determination as to whether:

(i) Enrollment in the project is appropriate,

(ii) The volunteer should be referred to an RSVP project that has agreed, in writing, to serve in the prescribed management role.

(2) Non-stipended volunteers serve under the following conditions:

(i) Their service must not supplant, replace, or displace any stipended volunteers.

(ii) No special privilege or status is granted or created among volunteers, stipended or non-stipended, and equal treatment is required.

(iii) Training, supervision, and other support services and direct benefits, other than the stipend, are available equally to all volunteers.

(iv) All regulations and requirements applicable to the program, with the exception listed in paragraph (b)(2)(vi) of this section, apply to all volunteers.

(v) Non-stipended volunteers may be placed in separate volunteer stations where warranted.

(vi) Non-stipended volunteers serving in SCP volunteer stations will be encouraged but not required to serve 20 hours per week and 50 weeks per year. Volunteers will maintain a close one-to-one relationship with clients, and will serve a minimum of two clients on a regular basis.

(vii) Non-stipended volunteers may contribute the cost of direct benefits.

(3) There are no requirements on either SCP or RSVP projects to enroll non-stipended volunteers. Implementation of these regulations by a local project may not be a factor in awarding new or renewal grants.

(c) *Funding:* No appropriated funds for SCP may be used to pay any cost, including any administrative cost, incurred in implementing these regulations. Such costs may be paid with:

(1) Funds received by the Director as unrestricted gifts.

(2) Funds received by the Director as gifts to pay such costs.

(3) Funds contributed by non-stipended volunteers.

(4) Locally-generated contributions in excess of the amount required by law.

Donna M. Alvarado,
Director of ACTION.

[FR Doc. 87-19247 Filed 8-25-87; 8:45 am]

BILLING CODE 6050-28-M

45 CFR Part 1208

Foster Grandparent Program; Non-Stipended Volunteers

AGENCY: ACTION.

ACTION: Final rule.

SUMMARY: These are the final rules implementing the provisions included in Pub. L. 99-551, the 1986 amendments to the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93-113, regarding volunteers serving without stipends in the Foster Grandparent Program. Certain revisions have been made in response to comments and suggestions from project staff, sponsors, and other members of the public.

DATE: This regulation shall take effect on October 13, 1987.

FOR FURTHER INFORMATION CONTACT: C. Wade Freeman, Assistant Director, Older American Volunteer Programs, ACTION, 806 Connecticut Avenue, NW., M-1006, Washington, DC 20525, (202) 634-9355.

SUPPLEMENTARY INFORMATION:

I. Description of the Rule

This rule responds to a new provision of the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93-113, encouraging the recruitment and placement of persons aged 60 and over, who are not low-income, as non-stipended volunteers to augment the services of volunteers mobilized through the Foster Grandparent Program. The Foster Grandparent Program (FGP) is described in the Catalog of Federal Domestic Assistance under reference Number 72.001. Reference is also made to the Retired Senior Volunteer Program, Number 72.006.

The purpose of the regulation is to:

(1) Open opportunities for and to tap the unused resources of Older Americans;

(2) Expand needed services to unserved and underserved populations.

The regulation prescribes: cooperative responsibilities between a local Foster Grandparent Program (FGP) project and local Retired Senior Volunteer Program (RSVP) project under circumstances where they are co-located in a given community setting; equal treatment of both groups of volunteers including training, supervision, etc.; freedom from

competition between stipended and non-stipended volunteers for available assignments, support, etc.; and other conditions relating to the service and benefits of non-stipended volunteers.

II. Discussion of Comments

The Agency has considered the comments received and has determined to adopt the proposed rule with some modifications. Discussed below are the major public comments received by the Agency in response to its proposed rule (52 FR 8480, March 18, 1987).

The Agency received several comments on this proposed rule, the majority of which pertained to the conditions of service (§ 1208.3-8). Some respondents indicated that the current language was unclear regarding the role of an RSVP project co-located in the same community with an FGP project. Objections were raised to the inclusion of the limitation that only RSVP projects "with programs serving the frail elderly or children with special or exceptional needs" be designated as hosts and managers of non-stipended volunteers as exceeding legislative intent. A small number urged that both local RSVP and FGP projects be permitted to recruit and place non-stipended volunteers in the same community area. A few respondents (4) raised questions regarding ACTION's role in resolving possible disputes between active co-located projects. These asked for clarification and an indication as to which office in ACTION would exercise the rule of arbiter. The following is the Agency response to the foregoing comments, and the resulting modifications.

The intent of the regulation is to meet the purpose of the legislative changes of Pub. L. 99-551; maintain the integrity of FGP and safeguard the ability of RSVP projects to meet their local programming objectives; and to minimize confusion and competition for volunteers. This regulation opens up opportunities to volunteer for individuals who are not low income. A cooperative working relationship between two co-located OAVP projects continues to be imperative. Consequently, § 1208.3-8 (b)(1) has been modified to read as shown and paragraph (b)(2) has been deleted in its entirety.

Clarification of some segments of paragraph (b)(3) (renumbered paragraph (b)(2) in the final rule) was requested and changes were made as shown.

Several respondents questioned the ability of projects to provide equal treatment given previous allegations of elitism among non-stipended volunteers, particularly where separate placements were arranged. However, no changes to

paragraph (b)(3)(ii) or (b)(3)(v) were requested and none have been made.

Comments focused on who would provide training, supervision, physical examinations, liability insurance, smocks (where needed) and transportation. No change was requested and none will be made to paragraph (b)(3)(iii).

Costs for the non-stipended volunteers can be borne by the volunteer station or by the project. If the project pays for the cost of such items as insurance, transportation, and physicals, funds other than Federal or non-Federal match funds must be used.

In the absence of a co-located RSVP project, or if such a project is unable or unwilling to provide the prescribed management support, the task will be undertaken by the FGP project. In that case, the regulations referred to in paragraph (b)(3)(iv) are those of the FGP program as provided in the FGP Operations Handbook.

Non-stipended volunteers serving FGP volunteer stations and clients will be encouraged but not required to serve 20 hours per week and 50 weeks per year; and, to the extent possible, will serve a minimum of two clients on a regular basis. Several comments were received asking for a clarification of intent, indicating that the likelihood of non-stipended volunteers serving 20 hours per week for 50 weeks was extremely small. The agency concurs and has modified paragraph (b)(3)(vi) accordingly.

All comments on paragraph (c), "Funding", were submitted by ACTION field staff dealing with practical administrative concerns. The stated restrictions on sources of funding were intended to protect the funding of traditional, stipended volunteers under FGP and the integrity of the FGP volunteer delivery system. Paragraph (c) was modified accordingly.

ACTION has determined that the rule is not a major rule as defined by Executive Order 12291. The rule will not result in any of the following:

1. Any effect on the economy;
2. Any increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
3. Any 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.

Pursuant to section 3(c) 3 of E.O. 12291, entitled "Federal Regulation" the required review process has been completed by the Director of the Office of Management and Budget.

List of Subjects in 45 CFR Part 1208

Aged, Grant programs-social programs, Reporting and recordkeeping requirements, Volunteers.

PART 1208—[AMENDED]

1. The authority citation for 45 CFR Part 1208 is revised to read as follows:

Authority: Secs. 211(a), 212, 221, 222, 223, 402(14) and 420 of Pub. L. 93-113, 87 Stat. 402, 403, 404, 407 and 414, 42 U.S.C. 5011 (a) and (f), 5012, 5021, 5022, 5023, 5042(14) and 5060.

2. Accordingly, 45 CFR Part 1208 is amended by adding § 1208.3-8 to read as follows:

§ 1208.3-8 Non-stipended volunteers.

(a) *Purpose:* Projects are encouraged to enroll persons aged 60 and over, who are not low-income, as non-stipended volunteers in order to:

(1) Open opportunities for and tap the unused resources of older Americans, and

(2) Expand needed services to unserved and underserved populations.

(b) *Conditions of Service:* (1) Overcome persons, age 60 or over, may not be enrolled in FGP projects as non-stipended volunteers in communities where a Retired Senior Volunteer Program (RSVP) project is available and the RSVP project is willing and able to assume the management role of placing the volunteer at an FGP volunteer station. When a Foster Grandparent project is contacted by an individual expressing an interest in serving as a non-stipended volunteer, the project shall contact the ACTION State Office for its determination as to whether:

- (i) Enrollment in the project is appropriate,
- (ii) The volunteer should be referred to an RSVP project that has agreed, in writing, to serve in the prescribed management role.

(2) Non-stipended volunteers serve under the following conditions:

(i) Their service must not supplant, replace, or displace any stipended volunteers.

(ii) No special privilege or status is granted or created among volunteers, stipended or non-stipended, and equal treatment is required.

(iii) Training, supervision, and other support services and direct benefits, other than the stipend, are available equally to all volunteers.

(iv) All regulations and requirements applicable to the program, with the exception listed in paragraph (b)(2)(vi) of this section, apply to all volunteers.

(v) Non-stipended volunteers may be placed in separate volunteer stations where warranted.

(vi) Non-stipended volunteers serving in FGP volunteer stations will be encouraged but not required to serve 20 hours per week and 50 weeks per year. Volunteers will maintain a close one-to-one relationship with clients, and will serve a minimum of two clients on a regular basis.

(vii) Non-stipended volunteers may contribute the cost of direct benefits.

(3) There are no requirements on either FGP or RSVP projects to enroll non-stipended volunteers. Implementation of these regulations by a local project may not be a factor in awarding new or renewal grants.

(c) *Funding*: No appropriated funds for FGP may be used to pay any cost, including any administrative cost, incurred in implementing these regulations. Such costs may be paid with:

(1) Funds received by the Director as unrestricted gifts.

(2) Funds received by the Director as gifts to pay such costs.

(3) Funds contributed by non-stipended volunteers.

(4) Locally-generated contributions in excess of the amount required by law.

Donna M. Alvarado,
Director of ACTION.

[FR Doc. 87-19246 Filed 8-25-87; 8:45 am]

BILLING CODE 6050-28-M

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-247, adopted August 3, 1987, and released August 20, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Maine by adding Channel 284A at Kennebunkport. Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-19499 Filed 8-25-87; 8:45 am]

BILLING CODE 6712-01-M

TDD for hearing impaired: (202) 275-1721.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's full decision. A copy may be purchased from T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357 (assistance for the hearing impaired is available through TDD services (202) 275-1721) or by pickup from TSI in Room 2229 at Commission headquarters.

This action will not significantly affect either the quality of the human environment or conservation of energy resources. The Commission certifies that this action will not have a significant adverse effect on a substantial number of small entities. It removes a rule that no longer is necessary to protect small shippers and removes regulatory burdens for small carriers.

List of Subjects in 49 CFR Part 1059

Motor carriers.

Authority: 49 U.S.C. 10101 and 10922; 5 U.S.C. 553.

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1059—[REMOVED]

49 CFR Part 1059 is removed.

Decided: August 14, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87-19555 Filed 8-25-87; 8:45 am]

BILLING CODE 7035-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-247; RM-5158]

Radio Broadcasting Services; Kennebunkport, ME

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Channel 284A to Kennebunkport, Maine, as that community's first broadcast service, in response to a petition filed by Robert Towne. Supporting comments were filed by the petitioner.

Concurrence of the Canadian government has been obtained for the allotment of Channel 284A at Kennebunkport, Maine. With this action, this proceeding is terminated.

DATES: Effective October 5, 1987; The window period for filing applications will open on October 6, 1987, and close on November 5, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634-6530.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1059

[Ex Parte No. MC-186]

Elimination of Embargo Regulations; Motor Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Removal of rule.

SUMMARY: The Commission has determined to eliminate 49 CFR Part 1059 as obsolete and unnecessary. This part governs notification requirements for embargoes and any other delay in performing service by motor common carriers of property. The regulations were adopted on March 2, 1943 (8 FR 3003, March 11, 1943). Abuses, should they occur, can best be corrected on a case-by-case basis without the need for the existing regulations in 49 CFR Part 1059.

EFFECTIVE DATE: September 25, 1987.

FOR FURTHER INFORMATION CONTACT: Richard L. Gagnon, (202) 275-7711.

or

Mark Shaffer, (202) 275-7292.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 70845-7085]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of inseason adjustments and request for comments.

SUMMARY: NOAA announces (1) revised quotas for coho salmon in commercial and recreational fisheries south of Cape Falcon, Oregon, and (2) inseason adjustment of management measures for commercial fisheries from Cascade

Head to Cape Perpetua, Oregon. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with representatives of the Pacific Fishery Management Council (Council) and the Oregon Department of Fish and Wildlife (ODFW), that these modifications of quotas and possession and landing requirements meet the criteria for inseason adjustments to management measures. This action is necessary to conform with the pre-season announcement of regulations for the 1987 ocean salmon fisheries. It is intended to allow maximum harvest of ocean salmon quotas established for the 1987 season.

EFFECTIVE DATE: These inseason adjustments to commercial and recreational management measures in the exclusive economic zone (EEZ) south of Cape Falcon, Oregon, are effective at 0001 hours local time, August 22, 1987. Comments on this closure will be received until September 5, 1987.

ADDRESSES: Comments may be mailed to Rolland A. Schmitt, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitt (Regional Director) at 206-526-6150.

SUPPLEMENTARY INFORMATION: The ocean salmon fisheries are managed under a framework fishery management plan (50 CFR Part 661). An amendment to the plan (52 FR 4146, February 10, 1987) authorizes inseason adjustments of management measures if the adjustments are consistent with fishery regimes established by the U.S.-Canada Pacific Salmon Commission, ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the ocean allocation scheme in the framework amendment. In addition, all inseason adjustments must be based on consideration of the following factors: Predicted sizes of salmon runs; harvest quotas and hooking mortality limits for the area and total allowable impact limitations if applicable; amount of recreational, commercial, and treaty Indian catch for each species in the area to date; amount of recreational, commercial and treaty Indian fishing effort in the area to date; estimated average daily catch per fisherman, predicted fishing effort for the area to the end of the scheduled season; and other factors as appropriate.

Transfer of Coho Salmon From Recreational Quota to Commercial Quota

In its pre-season notice of 1987 management measures (52 FR 17264, May 6, 1987), NOAA announced that recreational fisheries south of Cape Falcon, Oregon, would be managed by an overall recreational impact quota of 269,200 coho salmon. Any portion of the recreational quota not needed to complete scheduled recreational seasons would be transferred to the troll fishery on or about August 1 (Table 2, footnote c).

Members of the Salmon Plan Development Team (Team) conferred on August 18 and, based on the best available information, projected that the recreational fisheries south of Cape Falcon would harvest only 234,200 coho salmon, leaving 35,000 coho salmon available for transfer to the commercial fisheries.

Modification of Commercial Possession and Landing Restrictions

NOAA also announced in its pre-season salmon notice that the commercial fisheries south of Cape Falcon would be partitioned into six subareas and managed not to exceed an overall troll catch quota south of Cape Falcon of 401,700 coho salmon. After the coho quota is met, fishing will continue for all salmon except coho until October 31, 1987.

Several of the six subareas south of Cape Falcon currently are closed to commercial fishing for coho salmon. Two subareas south of Point Delgada, California, were closed to commercial fishing for coho salmon on July 21, 1987, when the catch quota of 26,800 coho salmon was projected to be reached (52 FR 27817, July 24, 1987). The subarea from Cape Blanco, Oregon, to Point Delgada, California, was closed to commercial fishing for all salmon on June 25, 1987, when the commercial fishing quota of 113,300 chinook salmon was projected to be reached (52 FR 24297, June 30, 1987).

In accordance with the pre-season notice, commercial fisheries from Cape Falcon to Cape Blanco, Oregon, were closed for three days, July 29 through 31, 1987, when 80 percent of the coho quota for the area south of Cape Falcon was projected to have been reached (52 FR 28562, July 31, 1987).

Three subareas in the area from Cape Falcon to Cape Blanco, Oregon, currently are open to commercial fishing for all salmon species with some restrictions. There are different requirements for possession and landing of coho salmon depending upon the

subarea, the season, and how much of the overall coho quota for the area south of Cape Falcon, Oregon, has been taken (Table 1). In specified subareas during specified times, fishermen are allowed a single daily possession and landing per vessel of 100 coho salmon before a restriction on the number of coho accompanying the possession and landing of chinook (a ratio restriction) is applied. In other subareas or times, fishermen are not allowed this single daily possession and landing allowance before the ratio restriction is applied. After the commercial coho quota has been reached, fishing will continue for all salmon except coho salmon.

The Team conferred on August 18 and, based on the best available information and the current rate of harvest, projected that the commercial fisheries south of Cape Falcon would not meet the commercial coho quota until mid-September. Coho fishing that late in the season would increase impacts on Oregon coastal natural (OCN) coho stocks, and may prevent the ocean escapement goal of 200,000 OCN coho from being met.

The Team recommended that a single daily possession and landing allowance of 100 coho salmon be implemented in the subarea from Cascade Head to Cape Perpetua, to increase the likelihood that the commercial coho quota south of Cape Falcon would be harvested while coho stocks other than OCN coho were still in the area. The single daily possession and landing allowance of 100 coho salmon currently is in effect for the subarea from Cape Falcon to Cascade Head.

Therefore, NOAA issues this notice, after consideration of the factors specified for inseason adjustments, to adjust commercial and recreational management measures in specified areas south of Cape Falcon, Oregon, effective 0001 hours local time, August 22, 1987, as follows:

1. The recreational quota for the area south of Cape Falcon is reduced from 269,200 to 234,200 coho salmon, and the commercial quota is increased from 401,700 to 436,700 coho salmon.

2. Possession and landing restrictions from Cascade Head to Cape Perpetua, Oregon, are changed to allow the single daily possession and landing per vessel of 100 coho salmon. The restrictions on possession and landing of more than 100 coho salmon remain as indicated in the pre-season notice.

This notice does not apply to other fisheries which may be operating in this or other areas.

The Regional Director consulted with the Chairman of the Council and the

representatives of ODFW regarding these adjustments to recreational and commercial quotas and commercial possession and landing restrictions south of Cape Falcon, Oregon. The ODFW representative confirmed that Oregon will manage the commercial fishery in state waters adjacent to these subareas of the EEZ in accordance with this notice.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

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

Dated: August 21, 1987.

James E. Douglas, Jr.

Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

[FR Doc. 87-19586 Filed 8-21-87; 4:38 pm]

BILLING CODE 3510-22-M

50 CFR Part 672

[Docket No. 61220-7033]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the share of the sablefish target quota (TQ) allocated to pot gear in the Western Regulatory Area of the Gulf of Alaska will be reached shortly. Therefore, the Regional Director is prohibiting fishing for sablefish in the Western Regulatory area by persons using pot gear on August 22, 1987, through the remainder of the year.

DATES: This notice is effective at noon, August 22, Alaska Daylight Time, until

midnight, Alaska Standard Time, December 31, 1987. Public comments are invited until September 7, 1987.

ADDRESSES: Comments should be addressed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Resource Management Specialist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Regulations implementing the FMP are at 50 CFR Part 672.

Section 672.20(a) of the regulations establishes an optimum yield range of 116,000 to 800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. For 1987, a TQ was established for each of the groundfish species and apportioned among the regulatory areas and districts.

Section 672.2 of the regulations defines the Western Regulatory Area in the Gulf of Alaska. The TQ for sablefish is 3,000 mt in this area (52 FR 785, January 9, 1987). Section 672.24(b)(2) of current regulations provides a share of the TQ for pot gear in the Western Regulatory Area equal to 25 percent of the TQ, or 750 mt. Section 672.24(b)(3)(ii) specifies that when the Regional Director determines that the share of the sablefish TQ assigned to any type of gear for any year and any area or district is reached, further catches of sablefish must be treated as prohibited species by persons using that type of gear for the remainder of the year.

For pot vessels, the fishing season began on April 1, 1987. Several pot vessels have targeted, or are targeting,

on sablefish. The estimated pot catch through August 1 in the Western Gulf was 682 mt. At current harvest levels, the estimated pot catch through August 18 was 730 mt and the remainder of the pot quota in the Western area will be reached on August 22, 1987.

This closure will be effective when this notice is filed for public inspection with the Office of the Federal Register and after it has been publicized for 48 hours through procedures of the Alaska Department of Fish and Game. Public comments on this notice may be submitted to the Regional Director at the address above for 15 days following its effective date. If comments are received, the necessity of this closure will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this closure's continued effect, modifying it, or rescinding it.

Classification

Allocation of the sablefish resource between gear types in the Western Gulf of Alaska and the health of the sablefish resource will be jeopardized unless this notice takes effect promptly. NOAA therefore finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed. This action is taken under §§ 672.22 and 672.24 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Dated: August 21, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

[FR Doc. 87-19585 Filed 8-21-87; 4:38 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 52, No. 165

Wednesday, August 26, 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.

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Docket No. R-0611]

Credit by Brokers and Dealers; Regulation T Exercise of Employee Stock Options

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing for public comment an amendment to Regulation T that will permit broker-dealers to aid in the exercise of company stock options owned by a employee of the company. In lieu of the securities to be received upon exercise, the proposed amendment will allow broker-dealers to accept a fully-endorsed employee stock option and instructions to the employer to deliver the securities to the broker-dealer.

DATE: Comments should be received on or before September 28, 1987.

ADDRESS: Comments, which should refer to Docket No. R-0611, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street, & Constitution Avenue NW., Washington, DC 204551, or delivered at the C Street Entrance between 8:45 a.m. and 5:15 p.m. weekdays to Room B-2223. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Securities Credit Officer, or Scott Holz, Attorney, Division of Banking Supervision and Regulation, (202) 452-2781. For the hearing impaired only, Telecommunications Service for the Deaf, Earnestine Hill or Dorothea Thompson, (202) 452-3544.

SUPPLEMENTARY INFORMATION: Since the complete revision of the margin regulations in 1983, the Board has reduced restrictions on employee stock ownership and option plans. Regulation G (12 CFR Part 207) has always had less

restrictive margin requirements for the financing of employee stock options, which many corporations view as a form of compensation to their employees. Broker-dealers cannot currently lend customers money to exercise these options using the option as collateral. The proposed amendment will allow the broker-dealer to accept a fully-endorsed employee stock option with instructions signed by the customer instructing the employer to deliver the securities to the broker-dealer. The customer would designate the account into which the securities should be deposited and would comply with the applicable time limits and any required payment.

Some companies that have desired to help their employees exercise company stock options in the past have established a procedure with a broker-dealer and extended unsecured credit to their employees. Under this arrangement, described in the *Federal Reserve Regulatory Service* at 5-347.14, the employee signs the option exercise form and an unsecured demand promissory note payable to the company for the exercise price of the shares. If the employee wishes to sell the shares, he requests that the shares be registered in the name of the broker-dealer and that the proceeds of the sale be sent to the company. The company deducts an amount sufficient to pay off the note and any applicable tax and remits a check for the balance to the employee. The proposed amendment will simplify the process by eliminating the need for the company to establish a procedure with a broker-dealer, including the extension of unsecured credit by the company. The broker-dealer will be able to extend secured credit by relying temporarily on the exercise notice and customer instructions in lieu of the stock itself.

Regulatory Flexibility Act

The Board believes there will be no significant economic impact on a substantial number of small entities if this proposal is adopted. Comments are invited on this statement.

Paperwork Reduction Act

No additional reporting requirements of modification to existing reporting requirements are proposed.

List of Subjects in 12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin

Requirements, Investments, Reporting and recordkeeping requirements, Securities.

For the reasons set out in this notice, and pursuant to the Board's authority under sections 3, 7, 8, 17, and 23 of the Securities Exchange Act of 1934, as amended, (15 U.S.C. 78c, 78g, 78h, 78q and 78w), the Board proposes to amend 12 CFR Part 220 by adding new § 220.3(e)(4) as follows:

PART 220—[AMENDED]

1. The authority citation for Part 220 continues to read as follows:

Authority: 15 U.S.C. 78c, 78g, 78h, 79q, and 78w.

2. The Board proposes to add § 220.3(e)(4) as follows:

§ 220.3—General provisions

(4) A creditor may accept, in lieu of securities, a properly executed exercise notice for a stock option issued by the customer's employer and instructions to the issuer to deliver the resulting stock to the creditor. Prior to acceptance, the creditor must verify that the employer will deliver the securities promptly and the customer must designate the account into which the securities are to be deposited.

By order of the Board of Governors of the Federal Reserve System, August 20, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-19511 Filed 8-25-87; 8:45 am]

BILLING CODE 6210-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Parts 193 and 561

[PP 7H5532/P430; FRL 3252-2]

Pesticide Tolerances for Metalaxyl; Certain Food and Feed Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that food and feed additive regulations be established to permit residues of the fungicide metalaxyl and its metabolites in or on certain food and feed items. This proposed regulation to establish a maximum permissible level for residues

of metalaxyl in or on the commodities was requested in a petition submitted by Ciba-Geigy Corp.

DATE: Comments, identified by the document control number, [PP 7H5532/P430], should be received on or before September 25, 1987.

ADDRESS: By mail, submit written comments to:

Information Services Section, Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

In person, bring comments to: Room 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document 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 Room 236 at the address given above, for 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT:

By mail.

Lois A. Rossi, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460
Office location and telephone number:
Room 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1900.

SUPPLEMENTARY INFORMATION: Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419, submitted petition 7H5532 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, proposes the establishment of a tolerance for residues of the fungicide metalaxyl, [N-(2,6-dimethylphenyl)-N-(methoxyacetyl)alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and N-(2-hydroxymethyl-6-methenyl)-N-(methoxyacetyl)alanine methyl ester, each expressed as metalaxyl, in or on the commodity dry hops at 10 ppm. The petitioner amended the petition to include a food additive tolerance at 50

ppm on dry hops and a feed additive tolerance on spend hops at 50 ppm.

It is proposed that these regulations expire 1 year after the date the final rule is published in the **Federal Register**. If the following are submitted and are acceptable to the Agency, the Agency will consider extending this tolerance beyond the one-year time period: Revised label with correct calculations for total metalaxyl (ai) applied per year; residue data on samples with analysis by the Pesticide Analytical Manual (PAM-11) procedure or another proven procedure that determines parent and metabolites included in the U.S. tolerance expression (storage intervals between sampling and analysis and storage conditions should be reported for all residue data).

The data submitted in this petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 3-month dietary study in rats with a non-observed-effect level (NOEL) at 12.5 milligrams/kilogram body weight (mg/kg bwt/day) (250 ppm).

2. A teratology study in rats with a teratogenic NOEL of 400 mg/kg/ bwt (highest dose tested). Metalaxyl was not teratogenic, even in the presence of maternal toxicity. The NOEL for both developmental and maternal effects was 50 mg/kg.

3. A teratology study in rabbits with a teratogenic NOEL of 300 mg/kg/bwt (highest dose tested). Metalaxyl was not teratogenic, nor did it cause developmental toxicity even in the presence of maternal toxicity 300 mg/kg.

4. A Salmonella mutagenicity study that was negative for reverse mutations with and without mammalian microsome activation.

5. A mouse dominant lethal study that was negative for mutagenicity.

6. Metalaxyl did not induce unscheduled DNA synthesis in rat hepatocytes or human fibroblasts.

7. A hamster *in vivo* nucleus anomaly test was negative for mutagenic activity.

8. A three-generation rat reproduction study with a NOEL of 62.5 mg/kg/ bwt/day (1,250 ppm, highest dose tested).

9. A 6-month dog feeding study with a NOEL of 6.3 mg/kg bwt/day (250 ppm).

10. A 2-year rat chronic feeding/oncogenic study with no compound-related oncogenic effects under the conditions of the study at dietary levels up to 1,250 ppm. The NOEL is 12.5 mg/kg bwt/day (250 ppm) based upon vacuolation of hepatocytes at 1,250 ppm.

11. A 2-year mouse oncogenic study with no compound-related oncogenic

effects under the conditions of the study at dietary levels up to 1,250 ppm.

The acceptable daily intake (ADI), based on the 6-month dog feeding study (NOEL of 6.3 mg/kg bwt/day) and using a hundred-fold safety factor, is calculated to be 0.60 mg/kg bwt/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for the U.S. population average is calculated to be 0.0098 mg/kg bwt/day. The current action will increase the TMRC by 0.0011 mg/kg day or 11.2 percent. Published tolerances utilize 16.4 percent of the ADI, and the current action will utilize an additional 1.9 percent of the ADI.

The nature of the residues is adequately understood, and analytical methodology is available in the Pesticide Analytical Manual, Volume II (PAM-II) for enforcement purposes. The PAM II method involves gas-liquid chromatography (GLC) with alkali flame ionization detection (AFID), and with mass spectrometry for samples that show interference in the GLC/AFID.

Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore, it is proposed that these tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after published of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments should bear a notation indicating the document control number [PP 7H5532/P430]. Written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 through 612), the Administrator has determined that regulations establishing exemptions from tolerance requirements do not have a significant economic impact on a

substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

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

List of Subjects in 21 CFR Parts 193 and 561

Food additives, Animal feeds, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 19, 1987.

James W. Akerman,
Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that Chapter I of 21 CFR be amended as follows:

PART 193—[AMENDED]

1. In Part 193:

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

Authority: 21 U.S.C. 348.

b. Section 193.277 is amended by adding new paragraph (d), to read as follows:

§ 193.277 Metalaxyl.

(d) A food additive regulation is established until (date 1 year after date of publication of the final rule in the *Federal Register* for residues of the fungicide metalaxyl [N-(2,6-dimethylphenyl)-N-(methoxyacetyl)-alanine methylester] and its metabolites containing the 2,6-dimethylaniline moiety, and N-(2-hydroxymethyl-6-methylphenyl)-N-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on the following processed foods when present therein as a result of application to growing hops:

Foods	Parts per million
Hops, dried.....	50

PART 561—[AMENDED]

2. In Part 561:

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

Authority: 21 U.S.C. 348.

b. Section 561.273 is amended by adding new paragraph (d), to read as follows:

§ 561.273 Metalaxyl.

(d) A feed additive regulation is established until (date 1 year after date of publication of the final rule in the *Federal Register* for residues of the

fungicide metalaxyl, [N-(2,6-dimethylphenyl)-N-(methoxyacetyl)-alanine methylester] and its metabolites containing the 2,6-dimethylaniline moiety, and N-(2-hydroxymethyl-6-methylphenyl)-N-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on the following processed feeds when present therein as a result of application to growing hops:

Feeds	Parts per million
Hops spent.....	50

[FR Doc. 87-19522 Filed 8-25-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 302

Civil Defense; State and Local Emergency Management Assistance Program (EMA)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule revises the Emergency Management Assistance (EMA) program formula factors by removing from the calculation the factor that provides that 10 percent of the appropriated funds will be allocated on the basis of the State's population in EMA participant jurisdictions as a percentage of the State's total population. The proposed rule increases the factor known as the "base" that now provides that 5 percent will be equally divided among the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico by the 10 percent removed from the EMA population factor; the base would thus be 15 percent that is equally divided among each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

DATE: Comments must be received by October 26, 1987.

FOR FURTHER INFORMATION CONTACT: Marilyn Barton, FEMA, Office of Civil Defense, Washington, DC 20472, (202) 646-3510.

SUPPLEMENTARY INFORMATION: The proposal to remove the 10 percent allocated on the basis of the State's population in EMA is supported by the following:

1. The existing factor can be a deterrent to good program management. By eliminating a local jurisdiction for nonperformance, the State penalizes itself; and the EMA population is

reduced, the funds to that State are decreased.

2. From time to time program emphases change to reflect a more current assessment of the locations where the capability is to be developed and the kinds of civil preparedness readiness activities. In this context, a renewed emphasis on surging civil defense resources suggests a more deliberate expansion of the number of EMA participant jurisdictions.

Due to changing conditions it is appropriate to eliminate this EMA factor. Similarly, these conditions also warrant increasing the base factor to each State from 5 percent to 15 percent for reasons including awareness that all States are at potential risk and that the costs of maintaining emergency management activities are increasing.

The change in this factor will facilitate the allocation process without substantive negative impact on the amount allocated to the States. Using the FY 1987 appropriated EMA funds level, State population figures, and prior year allocations, FEMA studied various iterations that spread the 10 percent from the EMA population factor in various ways over the other formula factors, which are: The amount of EMA funds allocated in the previous year (50 percent), the population of the State (33 percent), and the reserve (2 percent). In each of the sample computations, except for the one that is proposed in this rule, the variances as to the amount of funds that would be provided by the formula were judged to be disruptive to the program. While all States would be affected by the change in the formula, most of the changes would be less than 3 percent, plus or minus, of the total allocated to a State by the formula. Listed below are the initial FY 1987 EMA State allocations (excluding distribution of the 2 percent reserve and the territories) compared with the allocations based on the proposed formula factors at the same appropriation of \$54,123,000 (also excluding the 2 percent reserve distribution and the territories whose allocations would remain the same) along with the percentage of increase or decrease. As Federal funding to which these regulations will be applicable is less than \$100,000,000 annually, the regulation is not considered to be a major regulation requiring a regulatory analysis under Executive Order 12291. The regulation is also applicable to States to which the funding is made available and, thus, is not subject to the requirements of the Regulatory Flexibility Act which is concerned with small entities. No regulatory flexibility

analysis will be prepared. This amendment does not call for any collection of information requiring

clearance under section 3504(h) of the Paperwork Reduction Act and, as the regulation is administrative in character,

there is no requirement for environmental clearance.

State	FEMA region	Proposed formula allocations	Initial FY 1987 allocation	Dollar difference	Percent change
Allocation factors		\$53,040,540	\$53,040,540	\$0	0
Connecticut	01	796,262	770,341	27,921	3.62
Maine	01	508,045	513,336	(5,291)	-1.03
Massachusetts	01	1,141,848	1,112,591	29,257	2.63
New Hampshire	01	339,517	355,549	43,968	12.37
Rhode Island	01	381,655	343,884	37,771	10.99
Vermont	01	315,209	238,313	76,896	32.30
New Jersey	02	1,445,315	1,467,951	(22,636)	-1.54
New York	02	3,489,924	3,510,621	(20,697)	-.59
Puerto Rico	02	859,589	884,554	(24,964)	-2.82
Delaware	03	409,957	429,817	(19,859)	-4.62
District of Columbia	03	424,435	449,399	(24,964)	-5.56
Maryland	03	1,005,161	1,030,125	(24,964)	-2.42
Pennsylvania	03	2,133,328	2,121,723	11,605	.55
Virginia	03	1,166,413	1,158,802	7,611	.67
West Virginia	03	545,908	524,788	21,121	4.02
Alabama	04	982,994	1,004,864	(21,871)	-2.18
Florida	04	1,985,316	2,007,407	(22,090)	-1.10
Georgia	04	1,271,863	1,269,278	2,584	.21
Kentucky	04	864,954	865,876	(923)	-.11
Mississippi	04	703,193	687,640	15,555	2.26
North Carolina	04	1,283,929	1,296,867	(12,938)	-1.00
South Carolina	04	842,296	865,683	(23,387)	-2.70
Tennessee	04	1,028,233	1,023,125	5,108	.50
Illinois	05	2,006,871	2,003,964	2,907	.15
Indiana	05	1,113,789	1,122,091	(8,302)	-.74
Michigan	05	1,718,506	1,725,524	(7,018)	-.41
Minnesota	05	1,246,693	1,266,088	(19,395)	-1.53
Ohio	05	1,812,382	1,815,656	(3,275)	-.18
Wisconsin	05	1,107,676	1,108,101	(425)	-.04
Arkansas	06	688,186	702,859	(14,673)	-2.09
Louisiana	06	994,402	991,031	3,372	.34
New Mexico	06	393,349	379,582	13,767	3.63
Oklahoma	06	798,697	788,321	10,375	1.32
Texas	06	2,565,485	2,524,728	40,756	1.61
Iowa	07	707,036	692,491	14,545	2.10
Kansas	07	692,285	697,948	(5,664)	-.81
Missouri	07	1,029,730	1,010,365	19,365	1.92
Nebraska	07	530,316	505,957	24,359	4.81
Colorado	08	774,234	773,490	744	.10
Montana	08	462,899	475,295	(12,395)	-2.61
North Dakota	08	423,198	448,162	(24,964)	-5.57
South Dakota	08	405,193	397,374	7,818	1.97
Utah	08	556,354	561,221	(4,867)	-.87
Wyoming	08	402,353	422,206	(19,854)	-4.70
Arizona	09	793,709	814,357	(20,648)	-2.54
California	09	4,379,151	4,373,834	5,317	.12
Hawaii	09	510,524	535,489	(24,964)	-4.86
Nevada	09	423,709	443,784	(20,075)	-4.52
Alaska	10	377,666	353,451	24,216	6.55
Idaho	10	420,652	442,536	(21,884)	-4.95
Oregon	10	715,734	721,482	(5,748)	-.80
Washington	10	1,002,246	1,010,839	(8,593)	-.85

List of Subjects in 44 CFR Part 302

Civil defense, Grants programs, National defense.

For the reasons set forth in the preamble it is proposed to amend Chapter I, Subchapter E, Part 302, Code of Federal Regulations as follows:

PART 302—[AMENDED]

1. The authority citation of Part 302 continues to read as follows:

Authority: 50 U.S.C. App. 2251 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12148.

2. In § 302.5, paragraphs (b)(3) and (b)(4) are removed and paragraph (b)(5) is redesignated as paragraph (b)(4).

3. A new paragraph (b)(3) is added:

§ 302.5 Allocations and reallocations.

(b) * * *

(3) Fifteen (15) percent will be divided equally among the 50 States, the District of Columbia, and Puerto Rico, in fulfillment of the statutory requirement to give due regard to "relative state of development of civil defense readiness of the State" (State level).

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 87-19520 Filed 8-25-87; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-324, RM-5750 and RM-5865]

Radio Broadcasting Services; Eupora and Columbus, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on two petitions for rule making. The petitions are mutually

exclusive. Tri County Broadcasting Company requests the substitution of FM Channel 241C2 for Channel 269A at Eupora, Mississippi and modification of the license for Station WEXA(FM), Channel 269A to reflect Channel 241C2. A site restriction 18.1 kilometers east of the community is required to accommodate the substitution. Radio Columbus, Inc. proposes the substitution of Channel 241C2 for 276A at Columbus, Mississippi and modification of its license for Station WMBC, to reflect the higher class channel. A site restriction 23.5 kilometers west of the community is necessary for this allotment. This proposal could provide a first wide coverage area station to Eupora or a second such service to Columbus.

DATES: Comments must be filed on or before October 13, 1987, and reply comments on or before October 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

Olvie E. Sisk, Partner, Tri County Broadcasting Company, Sisk Engineering, Inc., P.O. Box 549, Fulton, Mississippi 38843

Marvin Rosenberg, Frank R. Jazzo, Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, DC 20036 (Counsel For Radio Columbus, Inc.)

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-324, adopted August 3, 1987, and released August 20, 1987. The full text of the Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

For information regarding proper filing

procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-19501 Filed 8-25-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-308, RM-5828]

Radio Broadcasting Services; Socorro, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Haynes Communications Company seeking the substitution of Channel 225C1 for Channel 224A at Socorro, New Mexico, and the modification of its license for Station KHBN-FM to specify the higher powered channel. Channel 225C1 can be allocated to Socorro in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. In accordance with § 1.420(g) of the Commission's Rules, The petitioner will not be required to demonstrate the availability of an additional equivalent channel and the Commission will not accept competing expressions of interest in use of the higher powered channel at Socorro. Mexican concurrence in the allotment is required since Socorro is located within 320 kilometers (199 miles) of the U.S.-Mexican border.

DATES: Comments must be filed on or before October 13, 1987, and reply comments on or before October 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Carl Haynes, President, Haynes Communications Company, P.O. Box 31235, Jackson, MS 39206.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-308, adopted July 27, 1987, and released August 20, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M

Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-19502 Filed 8-25-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-625; RM-4739]

Television Broadcasting Services; North Las Vegas, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document denies a petition for rule making filed by James D. Merkel proposing the allotment of VHF television Channel 4 to North Las Vegas, Nevada. This allotment would have necessitated the substitution of VHF Channel 2 in lieu of Channel 3 in Las Vegas, Nevada, the substitution of VHF Channel 7 in lieu of Channel 4 in Cedar City, Utah, and deletion of VHF Channel 2 in Goldfield, Nevada. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 84-625, adopted July 28, 1987, and released August 20, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets

Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.
Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau

[FR Doc. 87-19500 Filed 8-25-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Determination of Experimental Population Status for an Introduced Population of Colorado Squawfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to introduce Colorado Squawfish (*Ptychocheilus lucius*) into the Lower Colorado River in Arizona and to determine the population to be "nonessential experimental" according to section 10(j) of the Endangered Species Act of 1973, as amended. Section 10(j) of that Act authorizes experimental populations of endangered species to be treated as if they were threatened. The Service has much more discretion in devising a management program for threatened species than for endangered species, especially on matters regarding regulated taking. Accordingly, a special rule to allow take in accordance with State law is proposed for this nonessential experimental population. In the past, Colorado squawfish were more widespread in the State of Arizona, occurring in several river drainages. This action is being taken in an effort to establish an additional population of Colorado squawfish within the species' historic range. The Service is requesting comments and information pertaining to this proposed reclassification.

DATES: Comments from all interested parties must be received by October 26, 1987. Public hearing requests must be received by October 13, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Service's Regional Office of Endangered Species, 500 Gold Avenue, SW., Room 4000, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Gerald Burton, Endangered Species Biologist, Albuquerque, New Mexico (see "ADDRESSES" above) (505/766-30972 or FTS 474-3972).

SUPPLEMENTARY INFORMATION:

Background

Among the significant changes made by the 1982 Amendments to the Endangered Species Act (Pub. L. 97-304) was the creation of a new section 10(j), which established procedures for the designation of specific populations of listed species as "experimental populations." Regulations implementing the experimental population designation were published on August 27, 1984 (49 FR 33885). Previous to the 1982 Amendments, the Service was permitted to translocate populations into unoccupied portions of a listed species' historic range if such an action would foster the conservation and recovery of the species. Local opposition to translocation efforts severely handicapped the effectiveness of translocation as a management tool. This opposition stemmed from concerns regarding the restrictions and prohibitions on private and Federal activities affecting endangered species under sections 7 and 9 of the Act. Under section 10(j) of the 1982 Amendments, past and future translocated populations established outside the current range, but within the species' historic range, may now be designated at the discretion of the Service as experimental. Such a designation will increase the Service's flexibility to manage these translocated populations because the Amendments provide that experimental populations of species that are otherwise listed as endangered may be treated as threatened. The Service has much more discretion in devising management programs for threatened species than for endangered species, especially on matters regarding regulated takings. Moreover, populations found to be

nonessential to the continued existence of the species in question would not be afforded protection under section 7(a)(2) of the Act, which requires Federal agencies to refrain from activities that are likely to jeopardize the continued existence of a listed species or adversely modify its critical habitat. The individual organisms comprising the designated experimental population will be removed from an existing source or donor population only after it has been determined that their removal itself will not violate section 7(a)(2) of the Endangered Species Act and complies with the permit requirements in section 10(a)(1)(A) and (d). The Service proposes a nonessential experimental population of the Colorado squawfish, currently listed as endangered.

The Colorado squawfish was once widespread, occupying the entire Colorado River system including the Gila River system in Arizona. Squawfish were also present in tributaries of the Gila River, including the Salt, Verde, and San Pedro Rivers and likely several other rivers. The last specimen known from the Arizona waters was collected in the early 1950's. Extensive sampling since the 1950's has failed to locate specimens anywhere within the State of Arizona. The reasons for the decline of the Colorado Squawfish are dewatering, dams, and competition with exotic species of fish.

Recovery actions, detailed in the Colorado Squawfish Recovery Plan, include the reintroduction of the species into selected streams within the historic habitat. Securing several, isolated populations ensures protection from extinction due to catastrophic destruction of a single population. Recent reintroduction efforts have included stocking of captive reared Colorado squawfish in the Salt and Verde Rivers in Arizona. Because potentially good habitat remains in the Lower Colorado River, the establishment of an additional population in the Lower Colorado River also seems likely. This additional population, if successfully established could contribute to the recovery of the species. The stock of Colorado squawfish to be used in this reintroduction will come from an existing captive-bred population and will not result in the removal of any individuals from the wild population.

Status of Reintroduced Populations

The reintroduced population of Colorado squawfish is proposed as a nonessential experimental population according to the provisions of the 1982 Amendments to the Endangered

Species Act. Nonessential experimental population status for the introduced Colorado squawfish means that they would be subject only to provisions of section 7(a) (1) and (4) of the Endangered Species Act which authorizes Federal agencies to establish programs furthering species conservation and which require Federal agencies to informally confer with the Secretary regarding actions that are likely to jeopardize the continued existence of the species. The restrictions on Federal agency activity in section 7(a)(2) would not apply (with the exception of activities on National Wildlife Refuge and National Park lands). Justification for the nonessential status for the proposed introduced experimental population of Colorado squawfish is as follows. Viable, native populations of this species remain in portions of the Green, Colorado, and Yampa Rivers in the upper Colorado River basin. In addition, attempts are being made to establish other experimental populations in the Salt and Verde Rivers. Sufficient brood stock is available at Dexter National Fish Hatchery, where successful techniques for propagating and rearing this species have been developed and are in progress. Creation of the proposed experimental population from captive breeding stock would not affect the survivorship of the remaining native populations.

Location of Reintroduced Populations

The site for this proposed reintroduction of Colorado squawfish is the Lower Colorado River, upstream from the Imperial Dam to Parker Dam in Yuma and La Paz Counties, Arizona, and in Imperial, Riverside and San Bernardino Counties, California. The reintroduction site is within the historic range of the species, and is isolated from all other populations of Colorado squawfish. This proposed population is 500 miles from the nearest native population, which is in the upper reaches of Lake Powell. The closest designated experimental population in the Verde River near Perkinsville, Arizona, is located about 300 river miles distant.

Management

The Service and Arizona Department of Game and Fish plan to initiate this reintroduction as soon as possible. Present plans call for annual stocking over the next 10 years. The first stocking

would consist of as many as 100,000 individuals. All of the fish will come from hatchery stock spawned and reared at Dexter National Fish Hatchery, Dexter, New Mexico. Fish from Dexter NFH will be reared to fingerling size by the State of Arizona at Page Springs State Fish Hatchery, Cornville, Arizona.

Condition of the reintroduced populations will be checked annually. Population expansion or reduction, reproductive success, and the general health condition of the fish will be determined by monitoring surveys. This proposed experimental population of squawfish will be treated as threatened species under all provisions of the Act other than section 7(a)(2). All of the prohibitions referred to in 50 CFR 17.31 would apply to these populations, except that individual fishes of these populations may be taken in accordance with applicable State law.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned government agencies, the scientific community, industry, or other interested parties concerning any aspect of this proposal are hereby solicited. Comments are particularly sought concerning:

- (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to Colorado squawfish in the Lower Colorado River;
- (2) Information of environmental impacts that would result from the rule; and
- (3) Possible alternatives to this proposed rule.

Final promulgation of the regulation on Colorado squawfish will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

National Environmental Policy Act

A draft Environmental Assessment under NEPA has been prepared and is available to the public at the Endangered Species Office, U.S. Fish and Wildlife Service, at the address listed above. This assessment will form the basis for a decision, to be made prior to the publication of a final rule, as to whether this is a major Federal action

which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500 through 1508).

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

The U.S. Fish and Wildlife Service has determined that this is not a major rule as defined by Executive Order 12291; that the rule would not have a significant economic effect on a substantial number of small entities as described in the Regulatory Flexibility Act (Pub. L. 96-354). The introduction site occurs within the high recreation use area of the Lower Colorado River. However, this listing is not expected to have any impact on recreational uses and is notably compatible with existing uses. The rule as proposed does not contain any information collection or recordkeeping requirements as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

Author

The primary author of this proposed rule is Sue Rutman, Endangered Species Biologist, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 98-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by revising the entry "Squawfish, Colorado" under FISHES 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						
FISHES							
Squawfish, Colorado	<i>Ptychocheilus lucius</i>	USA (AZ,CA,CO,NM,NV,UT,WY), Mexico.	Entire, except where listed as experimental populations below.	E	1,193	NA	NA
Do	do	do	Salt and Verde Rivers drainages, AZ; and lower Colorado River from Imperial Dam to Parker Dam, AZ, CA.	XN	193	NA	17.84(b) 17.84(f)

3. Add the following special rule to Part 17 by adding a new § 17.84(f) as follows:

§ 17.84 Special rules—vertebrates.

(f) Colorado squawfish (*Ptychocheilus lucius*).

(1) The Colorado squawfish population identified in paragraph (f)(6) below is a nonessential experimental population.

(2) No person shall take the species, except in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances:

(i) For educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act, or

(ii) Incidental to State permitted recreational fishing activities, provided that the individual fish taken is immediately returned to its habitat, or

(iii) In accordance with State conservation laws and regulations during open season.

(3) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of this species will also be a violation of the Endangered Species Act.

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

(5) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (f) (2) through (4) of this section.

(6) The proposed nonessential experimental population will be placed in the Lower Colorado River, upstream from Imperial Dam to Parker Dam in Yuma and La Paz Counties, Arizona, and in Imperial, Riverside, and San Bernardino Counties, California.

Dated: July 9, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-19519 Filed 8-25-87; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal to Determine Endangered Status for the Shortnose Sucker and the Lost River Sucker

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine endangered status for the shortnose sucker (*Chasmistes brevirostris*) and Lost River sucker (*Deltistes luxatus*), fishes restricted to the Klamath Basin of south-central Oregon and north-central California. Dams, draining of marshes, and diversion of rivers have reduced the range and numbers of both species by more than 95 percent. This action would implement the protection of the Endangered Species Act of 1973 for these two fish. The Service seeks relevant data and comments from interested parties on this proposal.

DATES: Comments from all interested parties must be received by October 26, 1987. Public hearing requests must be received by October 13, 1987.

ADDRESSES: Comments, hearing requests, and materials concerning this proposal should be sent to the Regional Director (FWE-SE), U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE Multnomah Street, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE Multnomah Street, Portland, Oregon (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

Cope (1879) originally described the shortnose sucker (*Chasmistes brevirostris*) and Lost River sucker (*Deltistes luxatus*) from Upper Klamath Lake, Oregon. Later during the 1800's, Gilbert (1898) and Evermann and Meek (1898) described two other species of *Chasmistes* from the same lake. A careful review of all available specimens, however, documented that *brevirostris* is the only valid species of *Chasmistes* from Upper Klamath Lake and that the other two "species" were merely sex or condition variants of *brevirostris* (Miller and Smith 1981).

The Lost River sucker was originally placed in the genus *Chasmistes* by Cope (1879). *Deltistes*, monotypic genus, was erected for the Lost River sucker in 1896 based on the delta-shaped gill rakers (Seale 1896). In addition to the deltoid, short gill rakers, the Lost River sucker is characterized by subterminal mouth, small hump on the snout (at least in preserved specimens), and large size of adults (ca. 10 lbs.). The primary morphological characters that distinguish the shortnose sucker from other species of *Chasmistes* include the presence of a terminal, oblique mouth with weak or no papillae on the lips. Scales are small, with 65 to 79 in the lateral line and 21 to 25 around the caudal peduncle (Miller and Smith 1981).

The Upper Klamath Lake and its tributaries are now the primary refuge for both the Lost River and Shortnose suckers. Remnant or highly hybridized (hybrids are not protected under the Endangered Species Act per 1983 Solicitor's Opinion) populations of these two species occur in the Lost River system and other nearby areas.

In addition to Upper Klamath Lake and its tributary streams, shortnose suckers and Lost River suckers have been collected from Copco Reservoir, California (Coots 1965, Moyle 1976), Boyle Reservoir, Oregon (Jeff S. Ziller, pers. comm.), and Clear Lake Reservoir, California (Coots 1965, Koch *et al.* 1975). Additionally, shortnose suckers have been collected from Lake of the Woods, Oregon (Andreasen 1975a). The Lost River sucker also was known from

Sheepy Lake, Lower Klamath Lake and Tule Lake in California (Coots 1965).

The population of shortnose suckers in Copco Reservoir may have resulted from drift of individuals downstream in the Klamath River from Upper Klamath Lake. Specimens of shortnose suckers collected from Copco Reservoir in 1962, 1978 and 1979 were introgressed with the Klamath smallscale sucker (*Catostomus rimiculus*) (Miller and Smith 1981). Nonetheless, Miller and Smith (1981) regarded the Copco Reservoir population as consisting of "relatively intact gene pool of *Chasmistes brevirostris*." A few shortnose suckers have recently been collected from Boyle Reservoir, located along the Klamath River between Upper Klamath Lake and Copco Reservoir. The status of this population, which appears quite small, is uncertain. The remaining populations of shortnose suckers have not fared as well. The Lake of the Woods population was lost in 1952 during a fish eradication program aimed at removing carp and perch from the lake (Andreasen 1975a). The Clear Lake Reservoir population of shortnose suckers shows evidence of extensive hybridization and repeated backcrossing with the Klamath largescale sucker (*Catostomus snyderi*) (Williams *et al.* 1985). Unlike the population of suckers in Copco Reservoir where debate exists concerning the extent of hybridization, the Clear Lake Reservoir population is not considered to be true-breeding or to consist of a relatively intact gene pool.

Like the shortnose sucker, the population of Lost River suckers in Copco Reservoir may have resulted from downstream drift of individuals from Upper Klamath Lake. The species also may exist just downstream from Copco in Iron Gate Reservoir (California Department of Fish and Game 1980). A few individuals have been collected from Boyle Reservoir in the Klamath River between Upper Klamath Lake and Copco Reservoir (Jeff S. Ziller, pers. comm.). Populations of Lost River suckers in Sheepy Lake, Lower Klamath Lake and Tule Lake were lost after 1924, when the lakes were drained for farming (Moyle 1976). Prior to 1924, large numbers of Lost River suckers were taken from Sheepy Creek, the spawning stream tributary to Sheepy Lake, for human consumption and livestock feed (Coots 1965). The Clear Lake Reservoir population of Lost River suckers is the last remnant of the species in the Lost River system. The population in Clear Lake Reservoir is small and suffers from large numbers of exotic species and lack

of sufficient spawning area (Koch *et al.* 1975).

The primary factors in the widespread decline of the shortnose sucker and Lost River suckers have included damming of rivers, instream flow diversion, draining of marshes and other forms of water manipulation. Dams have been particularly destructive in that they have blocked spawning runs of the fish and facilitated hybridization with other types of suckers in the dam's tailwaters. Although the construction of large reservoirs may provide suitable feeding and resting habitat for these lacustrine species, the reservoirs often lack large inflowing rivers that are necessary for successful spawning. Such in the case in Clear Lake Reservoir, for example, where a small intermittent creek is the only habitat that remains for spawning attempts.

Survey work performed in 1984-1986 by the Oregon Department of Fish and Wildlife, The Klamath Tribe, and the Service have shown drastic declines in the largest remaining population of both species in Upper Klamath Lake. During the 1984 survey, the population of shortnose suckers moving out of Upper Klamath Lake in the spawning run was estimated at 2,650 individuals. The 1985 and 1986 surveys found too few shortnose suckers to accurately estimate the population size. The catch per unit effort of shortnose suckers declined 34 percent between the 1984 and 1985 spawning runs. In 1986, catch per effort statistics yielded 74 percent decrease in the spawning run when compared to 1985. Although the population levels of the Lost River sucker have remained substantially above those critically low levels observed for the shortnose, the overall decline has been equally precipitous. In 1984, a population of 23,123 Lost River suckers was estimated in the Upper Klamath Lake spawning run. By the 1985 spawning run, the population had declined to 11,861 (Bienz 1986). Although the shortnose sucker and Lost River sucker are long-lived (up to at least 43 years in the latter species), the drastic decline can be explained by lack of successful spawning. No significant recruitment of young into the populations has occurred for approximately 18 years (Scoppettone 1986).

The Service included both the Lost River and shortnose suckers in category 2 of its December 30, 1982, comprehensive notice of review (47 FR 58954) of vertebrate species under consideration for listing as endangered or threatened. Category 2 includes those species for which information indicates that proposing to list as endangered or

threatened is possibly appropriate but for which additional data are needed. These two suckers were maintained in the September 18, 1985, update (50 FR 37957) of the 1982 notice. Additional information that has since been provided to the Service indicates that listing is now appropriate.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species 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 the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the shortnose sucker (*Casmistes brevirostris*) and Lost River sucker (*Deltistes luxatus*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Initial biological surveys of the Klamath Basin indicated the presence of large populations of fishes, and suckers in particular (Cope 1879, Gilbert 1898). Spawning runs of suckers from Upper Klamath Lake were large enough to provide a major food source for Indians and local settlers. The shortnose sucker and Lost River sucker were staples in the diet of the Klamath Indians for thousands of years (Charles E. Kimbol, pers. comm.). Even through the 1960's and 1970's, runs of suckers moving from Upper Klamath Lake up into the Williamson and Sprague Rivers were great enough to provide a major sport fishery that annually attracted many (John Fortune, pers. comm.). The primary species was the larger Lost River sucker, locally known as mullet, but significant numbers of shortnose suckers also occurred in the runs. During the past three years, however, the Klamath Tribe and local biologists have been so alarmed by the population decline of both suckers that the Oregon Department of Fish and Wildlife has recommended a closed season for the 1987 sport fishery.

Causes of the declines are varied and not fully understood. Clearly, there has been a drastic reduction in spawning success. Recent data show that neither species of sucker has successfully spawned for approximately 18 years (Scoppettone 1986). Most of the spawning habitat for the shortnose sucker and Lost River sucker has been lost. The primary factor may have been

the construction of the Sprague River Dam at Chiloquin, Oregon. The dam is located just upstream of the junction of the Sprague and Williamson Rivers and probably eliminated more than 95 percent of the historical spawning habitat. Neither the shortnose sucker or Lost River sucker spawn in the Williamson River upstream of its confluence with the Sprague. Fish ladders have been constructed at various times on the Sprague River Dam but their effectiveness in facilitating movement of suckers around the structure has been minimal to non-existent because, although these suckers are strong-swimmers, their leaping ability is greatly limited. Any successfully-spawned larvae may be diverted into agricultural fields by unscreened irrigation pumps and diversions. Minor secondary spawning occurred in the larger springs that flow from along the shores of Upper Klamath Lake. However, the usefulness of these spawning areas was lost when a railroad was constructed along the east shore of the lake and riprap was used to fill in the springs. Further problems may have been caused by decreases in water quality that result from timber harvest, removal of riparian vegetation and livestock grazing.

B. Overutilization For Commercial, Recreational, Scientific, or Educational Purposes

In past years, Oregon State law has allowed a snag fishery for the Lost River sucker. The shortnose sucker is incidentally taken each spring during its spawning runs by sport fishermen snagging the larger Lost River sucker. Approximately 1.3 percent of the shortnose suckers in the spawning run were taken in the 1984 sport fishing season (Bienz 1986). The take of Lost River suckers was greater, with a 5 percent exploitation rate in 1984 and 5.3 percent in 1985 (Bienz 1986). With normal population sizes, some recreational take of the shortnose sucker and Lost River sucker is acceptable and even may be beneficial because creel censuses provide valuable life history data on the species. Under the greatly reduced population levels now existing, however, any recreational take is detrimental. No commercial take is known. There is no evidence to suggest that collection for scientific or educational factors is significant. It should be noted that nearly all scientific data have been obtained from fish collected in natural die-offs (see Factor E, below), or during sport fishing.

C. Disease or Predation

Exotic fishes have been stocked into the Klamath Basin and may have played some role in the decline of the shortnose sucker and Lost River sucker. Such exotic species can serve as sources of parasites and/or diseases.

D. The Inadequacy of Existing Regulatory Mechanisms

Oregon state law requires collection permits to obtain specimens of either species for scientific or educational purposes. Although Oregon state law has allowed recreational take of these species in the past, the Oregon Department of Fish and Wildlife has proposed a closed season to the Fish and Game Commission. Regardless, sufficient State laws do not exist to protect the habitat. California State law lists the shortnose sucker and Lost River sucker as endangered. However, the only potentially viable California populations, in Copco Reservoir, are located near the border and probably utilize Oregon waters for spawning.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Hybridization with the Klamath largescale and Klamath smallscale suckers has been recognized as a problem in maintaining the genetic purity of shortnose sucker populations (Miller and Smith 1981, Williams *et al.* 1985). Similarly, hybridization between the Klamath largescale sucker and Lost River sucker has been reported in Upper Klamath Lake (Andreasen 1975a). Although hybridization occurs naturally between many species of suckers (family Catostomidae), increased incidence of hybridization occurs if one of the parental species experience a major population decline, as in the case of the shortnose sucker. Further hybridization is facilitated by dams that block spawning runs and force individuals of closely related species to spawn in mass in the dam's tailwaters. Spawning of the shortnose, Lost River and Klamath largescale sucker occurs below the Sprague River Dam at Chiloquin.

An additional source of mortality is late-summer die-offs in Upper Klamath Lake. A major die-off of Lost River shortnose suckers was observed during 1986 that resulted from blue-green algal blooms (genus *Aphanizomenon*) (Scoppetone 1986). Sucker die-offs do not occur every year, but may occur in dry or particularly hot years. Pollution of the lake and decrease summer inflows, perhaps caused by diversion of water the agricultural purposes, aggravate this phenomenon.

The presence of exotics, such as fathead minnows (*Pimephales promelas*) and yellow perch (*Perca flavescens*), may inhibit recovery. Fathead minnows were first documented in the Klamath River system during 1974 and have now spread into Upper Klamath Lake, where they have become abundant (Andreasen 1975b; Jeff S. Ziller, pers. comm.). The minnows may compete with the native suckers for food. Perhaps in response to the increased number of fathead minnows, the yellow perch population in Upper Klamath Lake has increased recently (Jeff S. Ziller, pers. comm.). The perch are potential predators on young suckers. Exotic fishes in the Lost River system include bullheads (*Ictalurus* spp.), largemouth bass (*Micropterus salmoides*) crappie (*Pomoxis* sp.) green sunfish (*Lepomis cyanellus*), rainbow trout (*Salmo gairdneri*), and Sacramento perch (*Archoplites interruptus*) (Koch *et al.* 1975; Jack E. Williams, pers. obs.).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to propose this rule. Based on this evaluation, the preferred action is to list the shortnose sucker and Lost River sucker as endangered. This action is warranted because of the reduced distribution and numbers of these species. Where the shortnose sucker and Lost River sucker remain, the populations are declining rapidly with no substantial recruitment of young into the populations for the past 18 years. In addition to stopping any additional losses, extensive research and initiation of recovery actions are necessary to prevent extinction within the immediate future.

Critical Habitat

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrent with the determination that a species is endangered or threatened.

The Service finds that designation of critical habitat for the shortnose sucker and Lost River sucker is not prudent at this time. As noted in factor "A" of the above "Summary of Factors Affecting the Species", much of the historic spawning habitat is not now accessible to either species because of a dam blocking the spawning migrations from Upper Klamath Lake. Therefore, determining the boundaries of areas to be included as critical habitat is difficult. Further, agency personnel are well-aware of the presence of both species through the Klamath Basin

Sucker Interagency Working Group. Little additional benefits of notification of the species presence would be achieved through critical habitat designation. Because of these factors, the Service finds not net benefit from proposing critical habitat at this time. If spawning grounds are more clearly identified, critical habitat may be proposed at such time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part below.

Section 7(a) of the Act, as amended requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal actions that may affect the shortnose sucker and Lost River sucker are issuances of licenses for dam projects by the Federal Energy Regulatory Commission; grazing or timber harvesting practices of the Forest Service along Upper Klamath Lake and the Sprague River; and agreements, leases or other arrangements between

The Klamath Tribe and local irrigation interests that would result in the diversion of water from the Williamson or Sprague Rivers. Permitting activities of the Army Corps of Engineers pursuant to section 404 of the Clean Water Act or section 10 of the River and Harbor Act may be affected, although no known permits are pending in the subject area.

Recovery activities that may be initiated include: Maintain or improve spawning habitat in streams, reduce nutrient inflow into lake habitat to improve water quality, reduce algal blooms and increase level of dissolved oxygen, obtain pure stock for captive propagation and reintroduction, and conduct research to determine what would facilitate the successful movement of these fish around existing and planned dams since passage of fish over the existing fish ladders is questionable.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be 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 these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or the lack thereof) to these species;

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of these species;

(4) Current or planned activities in the subject area and their possible impacts on these species; and

Final promulgation of the regulations on these species will take into consideration the comments any and additional information received by the Service, and such communications may lead to a final regulation that differs 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 should be made in writing and addressed to the Regional Director (FWE-SE), U.S. Fish and Wildlife Service, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232.

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).

References Cited

- Andreassen, J.K. 1975a. Systematics and status of the family Catostomidae in southern Oregon. Ph.D. Dissertation. Oregon State Univ. 76 pp.
- Andreassen, J.K. 1975b. Occurrence of the fathead minnow, *Pimephales promelas*, in Oregon. California Fish and Game 61:155-156.
- Bienz, C.S. 1986. Untitled report on Klamath Basin suckers survey results, 1984-1985. The Klamath Tribe. Unpublished. 6 pp. *California Department of Fish and Game*, 1980. At the crossroads, report on the status of California's endangered and rare fish and wildlife. Resources Agency, Sacramento. 147 pp.
- Coots, M. 1965. Occurrences of the Lost River sucker, *Deltistes luxatus* (Cope), and shortnose sucker, *Chasmistes brevirostris* (Cope), in northern California. California Fish and Game 51:68-73.

Cape, E.D. 1879. The fishes of Klamath Lake, Oregon. Am. Nat. 13:784-785.
 Evermann, B.W. and S.E. Meek. 1898. A report upon salmon investigations in the Columbia River basin and elsewhere on the Pacific Coast in 1896. Bull. U.S. Fish Comm. 17 (for 1897):15-84.
 Gilbert, C.H. 1896. The fishes of the Klamath River basin. Bull. U.S. Fish Comm. 17 (for 1897):1-13.
 Koch, D.L., J.J. Cooper, G.P. Contreras, and V. King. 1975. Survey of the fishes of the Clear Lake Reservoir drainage. Center for Water Resources Res., Desert Res. Inst. Reno, Nevada Proj. Rept. 37. 33 pp.
 Miller, R.R. and G.R. Smith. 1981. Distribution and evolution of *Chasmistes* (Pisces: Catostomidae) in western North America. Occ. Pap. Mus. Zool. Univ. Michigan 696:1-46.
 Moyle, P.B. 1976. Inland fishes of California. Univ. California Press, Berkeley. 405 pp.
 Scoppetone, G.G. 1986. Upper Klamath Lake, Oregon, catostomid research. U.S. Fish and Wildlife Service Report, Reno, Nevada. 14 pp.

Seale, A. 1896. Note on *Deltistes*, a new genus of catostomid fishes. Proc. California Acad. Sci. 6:269.
 Williams, J.E., D.B. Bowman, J.E. Brooks, A.A. Echelle, R.J. Edwards, D.A. Hendrickson, and J.J. Landye. 1985. Endangered aquatic ecosystems in North American deserts with list of vanishing fishes of the region. J. Arizona-Nevada Acad. Sci. 20:1-62.

Author

The primary author of this proposed rule is Dr. Jack E. Williams, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-1823, Sacramento, California 95825 (telephone 916/978-4866; FTS 460-4866).

List of Subjects in 50 CFR Part 17

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

Proposed Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

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

2. It is proposed to amend § 17.11(h), by adding the following, in alphabetical order under "Fishes", to the List of Endangered and Threatened Wildlife:

§ 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						
Sucker, Lost River	<i>Deltistes luxatus</i>	U.S.A. (OR, CA)	Entire	E		N/A	N/A
Sucker, Shortnose	<i>Chasmistes brevirostris</i>	U.S.A. (OR, CA)	Entire	E		N/A	N/A

Dated: August 13, 1987.
 Susan Recce,
 Assistant Secretary for Fish and Wildlife and Parks.
 [FR Doc. 87-19589 Filed 8-25-87; 8:45 am]
 BILLING CODE 4310-55-M

Notices

Federal Register

Vol. 52, No. 165

Wednesday, August 26, 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

August 21, 1987.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

EXTENSION

• Agricultural Stabilization and Conservation Service
Summary of Buyers Correction Accounts MQ-71

Weekly for six week period only
Small businesses or organizations; 3,012 responses; 1,506 hours; not applicable under 3504(h)

Sarah Matthews, (202) 475-5012

• Agricultural Stabilization and Conservation Service

Daily Warehouse Sales Summary
MQ-80, MQ-82, and MQ-72-2

On occasion

Businesses or other for-profit; 41,045 responses; 5,238 hours; not applicable under 3504(h)

Sarah J. Matthews, (202) 475-5012

Jane A. Benoit,

Departmental Clearance Officer.

[FR Doc. 87-19582 Filed 8-25-87; 8:45 am]

BILLING CODE 3410-1-M

Forest Service

Intent To Supplement the Environmental Impact Statement for the San Juan National Forest Land and Resource Management Plan; Archuleta, Conejos, Dolores, Hinsdale, La Plata, Mineral, Montezuma, San Juan, San Miguel, and Rio Grande Counties, Colorado

The Department of Agriculture, Forest Service, will prepare a supplement to the Final Environmental Impact Statement (EIS) and will amend the San Juan Forest Land and Resource Management Plan (the Forest Plan). The Forest Plan was approved September 29, 1983. The Notice of Availability for the EIS, Forest Plan and Record of Decision, appeared in the October 14, 1983, *Federal Register*. A reanalysis of the Forest Plan was required by Deputy Assistant Secretary of Agriculture, Douglas W. MacCleery's decision of July 31, 1985, related to a review of the Chief's decision on an appeal of the EIS and Plan by the Natural Resources Defense Council.

There is no determination as yet as to what specific changes will be made to the Forest Plan. The Forest Service has made a preliminary determination that changes to management of the timber resource will occur, requiring amendment(s) to the Forest Plan [36 CFR 219.10(f)]. This determination is

based on results of its reanalysis efforts to date. The Forest Service will subsequently make a final determination of significance in a new Record of Decision.

The analysis will concentrate on the following issue areas which initiated the need for a change:

1. USDA decision of July 31, 1985;
2. Below cost timber sales;
3. Timber demand; and
4. Aspen management.

The issues focus on demand for wood fiber on the Forest, "below-cost" timber sales, and the main points of the MacCleery decision. These six main points deal with economic implications of the timber program, the timber program's contribution to net public benefits, timber cost reduction—revenue enhancement studies, timber demand, timberland suitability, and "below-cost" timber sales.

The Proposed Action (Forest Plan) and alternatives are described in Chapter II of the Final Environmental Impact Statement prepared for the Forest Plan (Chapter II, pages II-15 through II-38). A discussion of the issues addressed in the Final EIS is on pages I-10 through I-14. Public comment on the issues and the Forest Service responses appear in Chapter VI of the Final EIS.

As part of the reanalysis effort, the original alternatives will be redesigned to respond to the issues described above. Additional alternatives may be developed. Federal, State, and local agencies, individuals, and organizations are invited to submit comments on the issues.

The Forest Service is following the requirements in 36 CFR Part 219 for amending the Forest Plan.

Gary E. Cargill, Regional Forester, Rocky Mountain Region, is the responsible official.

The draft supplement to the Environmental Impact Statement should be available for public review and comment by April 1988. The final supplement to the Environmental Impact Statement is scheduled to be completed by September 1988.

Written comments and suggestions concerning the issues and their analysis should be sent to John R. Kirkpatrick, Forest Supervisor, San Juan National Forest, 701 Camino del Rio, Durango, Colorado 81301, by September 30, 1987.

Date: August 17, 1987.
S.H. Hanks,
Deputy Regional Forester.
[FR Doc. 87-19505 Filed 8-25-87; 8:45 am]
BILLING CODE 3410-11-M

Soil Conservation Service

Intent To Prepare an Environmental Impact Statement; Whites Creek Watershed, MS

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

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 being prepared for the Whites Creek Watershed, Webster County, Mississippi.

FOR FURTHER INFORMATION CONTACT: L. Pete Heard, State Conservationist, Soil Conservation Service, 1321 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39209, telephone 601-965-5205.

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. However, because the plan requires Congressional Committee approval, L. Pete Heard, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for flood prevention and providing for future municipal and industrial water storage. Alternatives under consideration to reach these objectives include a multiple purpose structure.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Further information on the proposed action may be obtained from L. Pete Heard, State Conservationist, at the above address.

(This activity is listed in the Catalog of Federal Domestic Assistance under No.

10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials)

Dated: August 17, 1987.

L. Pete Heard,
State Conservationist.
[FR Doc. 87-19512 Filed 8-25-87; 8:45 am]
BILLING CODE 3410-16-M

AVIATION SAFETY COMMISSION

Meeting; Cancelled

Previous announcement: 52 FR 31798, August 24, 1987. Meeting 10 a.m. to 1 p.m., August 28, 1987.

Change in meeting: Cancelled.

For further information contact: Richard K. Pemberton, Administrative Officer, Aviation Safety Commission, Premier Building, Room 1008, 1725 I Street NW., Washington, DC 20006, (202) 634-4677 or (202) 634-4860.

John M. Albertine,
Chairman.
[FR Doc. 87-19677 Filed 8-25-87; 8:45 am]
BILLING CODE 6820-AG-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Minority Business Development Agency

Title: Memorandum of Understanding for City/State Governments
Form Number: Agency—NA; OMB—0640—0012

Type of Request: Extension of a currently approved collection
Burden: 150 respondents; 150 reporting hours

Needs and Uses: The Memorandum of Understanding (MOU) identifies opportunities that State and local governments will make available to minority firms. The MOU program contributes directly to the success of the President's Volunteer Assistance Programs.

Affected Public: State or local governments

Frequency: Annually
Respondents Obligation: Voluntary
OMB Desk Officer: Donald 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, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: August 19, 1987.

Edward Michals,
Departmental Clearance Officer, Office of Management and Organization.
[FR Doc. 87-19518 Filed 8-25-87; 8:45 am]
BILLING CODE 3510-CW-M

International Trade Administration

[A-122-701]

Potassium Chloride From Canada; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that potassium chloride from Canada is being, or is likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend the liquidation of all entries of the subject merchandise as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by November 3, 1987.

EFFECTIVE DATE: August 26, 1987.

FOR FURTHER INFORMATION CONTACT: Michael Ready (202 377-2613) or Mary S. Clapp (202 377-1769) Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that potassium chloride from Canada is being or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We made fair value comparisons on sales of the class or kind of merchandise to the United States during the period of investigation, September 1, 1986, through

February 28, 1987. The margins of sales at less than fair value are shown in the "Suspension of Liquidation" section of this notice.

Case History

On February 10, 1987, we received a petition in proper form filed by Lundberg Industries, Ltd. and New Mexico Potash Corporation on behalf of the U.S. industry producing potassium chloride. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threaten material injury to, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We initiated such an investigation on March 2, 1987 (52 FR 6337, March 1987) and notified the ITC of our action.

On March 16, 1987, questionnaires were presented to counsel for five Canadian producers and exporters of potassium chloride. An extension of time in which to respond was granted to all respondents. We received responses from the Potash Company of America (PCA), Potash Corporation of Saskatchewan (PCS), Central Canada Potash (CCP), PPG Industries, Inc./Kalium Chemicals (Kalium), and International Minerals and Chemical Corporation (IMC) from May 1, 1987, to May 3, 1987.

We sent deficiency letters to all five respondents during the period of May 10 through 16, 1987.

On June 26, 1987, petitioners requested a postponement of the preliminary determination. On July 1, 1987, in accordance with section 733(c)(1)(A) of the Act, we postponed the preliminary determination to August 7, 1987 (52 FR 25897, July 9, 1987).

On July 21, 1987, in accordance with the above-referenced section of the Act, we further postponed the preliminary determination to August 20, 1987 (52 FR 28035, July 27, 1987), at the request of the petitioners.

Additional deficiency letters were sent to respondents during July and August. Responses to all deficiency letters were received by the Department prior to this determination.

Scope of Investigation

The product covered by this investigation is potassium chloride, otherwise known as muriate of potash.

The product is currently classified in the *Tariff Schedules of the United States* (TSUS) under item number 380.50 and currently classifiable under Harmonized System (HS) item number 3104.20.00.

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. Congress is considering legislation to convert the United States to this harmonized system by January 1, 1988. In view of this, we will be providing both the appropriate TSUS item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUS, the HS item numbers are provided for convenience and customs purposes. The written description remains dispositive as to the scope of the product coverage.

We are requesting petitioners to include the appropriate HS item numbers as well as the TSUS item numbers in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Additionally, all customs offices have reference copies, and petitioners may contact the Import Specialist at their local customs office to consult the schedule.

Fair Value Comparisons

To determine whether sales in the United States of the potassium chloride were made at less than fair value, we compared the United States price with the foreign market value as specified below. We investigated sales of potassium chloride for the period September 1, 1986, through February 28, 1987.

United States Price

We based United States price on exporter's sales price (ESP) for sales made after importation, in accordance with section 772(c) of the Act. For those sales which were made prior to importation, we determined that the merchandise had been purchased through related parties directly from the manufacturer or producer and, therefore, based on the United States price on purchase price in accordance with section 772(b) of the Act. We used purchase price for those sales based on the following analysis:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being

introduced into the inventory of a related U.S. selling agent;

2. This was the customary commercial channel for sales of this merchandise between the parties involved; and

3. The related selling agent located in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyer.

Where all the above elements are met, we regard the routine selling functions of the exporter as having been merely relocated geographically from the country of exportation to the United States, where the sales agent performs them. Whether these functions take place in the United States or abroad does not change the substance of the transactions or the functions themselves.

We regard the diversion of merchandise into the related U.S. selling agent's inventory as an important factor in distinguishing between ESP and purchase price because it is associated with a materially different type of selling activity than that which occurs on a direct shipment to an unrelated U.S. purchaser. In situations where the related party places the merchandise into inventory, it commonly incurs substantial storage and financial carrying costs and has added flexibility in its marketing. With direct shipments, the activity which takes place in the U.S. is the mere facilitation of a transaction.

We also use the inventory test because it can be readily understood and applied by respondents who must reply to Department questionnaires in a short period of time. It is objective in nature, as the final destination of the goods can be established from normal commercial documents associated with the sale and verified with certainty.

We calculated purchase price and ESP based on the unpacked, f.o.b. or c.i.f., delivered prices to unrelated purchasers in the United States. We made deductions from the purchase price and ESP, where appropriate, for foreign inland freight, water freight, U.S. inland freight, marine insurance, brokerage, and handling charges pursuant to section 772(d)(2)(A) of the Act. We also made deductions, where appropriate, for discounts and rebates. Where we used EPS, we made additional deductions, where appropriate, for credit expenses, advertising, warranty, commissions and other U.S. selling expenses, pursuant to section 772(e)(1) and (2) of the Act.

Foreign Market Value

We initially determined that all respondents, except CCP, had an adequate number of sales in the home

market to be used for determining foreign market value in accordance with section 733(a)(1)(A) of the Act. We determined that CCP did not have an adequate number of home market sales and, therefore, used sales through Canpotex, a consortium established by Canadian potassium chloride producers for exporting to third countries, for determining foreign market value in accordance with section 733(a)(1)(B) of the Act.

Petitioners alleged that home market and third country prices were made at less than the cost of production and that constructed value should be used to compute foreign market value.

We calculated cost of production based on respondents' submissions. We made certain adjustments to the cost data when the value reported did not fully reflect the costs incurred by the company.

We adjusted the cost of manufacturing:

- To include a "resource payment" made by PCA for leasing land.
- To calculate a weighted-average cost of manufacturing for both PCA mines producing potash during the period of investigation.

We adjusted the general expenses:

- To exclude the "resource payment" made by PCA.
- To exclude ex-factory transportation expense for IMC and CCP.
- To include or revise the financial expenses for all companies.
- To include general research and development for PCS, Kalium, CCP, and IMC.
- To reclassify certain expenses reported as packing for IMC and PCS.
- To include actual selling expenses for third country or home market sales, as applicable, for all companies.

We are requesting additional information regarding possible costs associated with the closing of mines due to flooding. We will consider how such costs should be treated for purposes of the final determination.

We compared home market or third country prices, as appropriate, to cost of production. For PCS and PCA, we found insufficient home market sales above cost to use as the basis for determining fair value and, therefore, used constructed value. For ICM, Kalium, and CCP, we calculated foreign market value on the basis of home market or third country (for CCP) sales where there were an adequate number of sales above cost. Where there were no sales of such or similar merchandise or insufficient sales of such or similar merchandise at prices above cost of

production, we based foreign market value on constructed value.

In accordance with section 773 of the Act, where we calculated foreign market value based on f.o.b. delivered or c.i.f., home market or third country prices to unrelated purchasers, we made deductions, where appropriate, for rebates, inland freight, water freight, and insurance. The third country price used to represent sales by CCP were Canpotex's prices to Japan.

We made adjustments under section 353.15 of the Commerce Regulations for differences in circumstances of sale for credit expenses, warranties, advertising, technical service expenses, and after sale warehousing expenses in the United States and home market, where appropriate. Where appropriate we made an adjustment for differences in commissions or offset commissions in one market with selling expenses in the other market.

For comparison to exporter's sales price transactions, we offset indirect selling expenses incurred on home market or third country sales up to the amount of the selling expenses incurred on sales in the U.S. market, in accordance with § 353.15(c) of our regulations.

In accordance with section 773(e) of the Act, the constructed value included material and fabrication costs, general expenses and profit, adjusted as noted in our description of "cost of production" above. Since general expenses exceeded the statutory minimum of 10 percent of material and fabrication costs, the actual expenses were used. Since profit was less than the statutory minimum, eight percent profit was added.

Since all potassium chloride is sold in bulk, there were no packing expenses to be added. We made adjustments to constructed value for difference in circumstances of sale and to offset ESP selling expenses as described above.

Currency Conversion

For ESP comparisons, we used the official exchange rate in effect on the date of sale, in accordance with section 773(a)(1) of the Act, as amended by section 615 of the Trade and Tariff Act of 1984 (1984 Act). For purchase price comparisons, we used the exchange rate described in § 353.56(a)(1) of our regulations. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Critical Circumstances

On June 19, 1987, the petitioners alleged that "critical circumstances" exist within the meaning of section 733(e) of the Act with respect to

potassium chloride from Canada. In determining whether critical circumstances exist, that section provides that we examine whether:

(A) (i) There is history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of investigation; or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value; and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 735(a)(3)(B), we generally consider the following data in order to determine whether massive imports have taken place over a short period of time: (1) The volume and value of the imports; (2) seasonal trends; and (3) the share of domestic consumption accounted for by the imports.

To determine whether imports have been massive over a relatively short period, we analyzed recent Department of Commerce IM-146 trade statistics on imports of this merchandise for equal periods immediately preceding and following the filing of the petition. Comparing imports during December-February to March-May, these statistics show an increase in both quantity and value in the post-filing period over the pre-filing period. (The petition was filed on February 10, 1987.)

However, a further review of the statistics shows that a seasonal trend exists for imports of potassium chloride to the U.S. The statistics show that imports of potassium chloride from Canada during the March-May period exceeded imports during the preceding December-February period in each of the last four years. The average increase was 27 percent. The increase this year (since the filing of the petition) was 15 percent, a percentage increase less than the average of the preceding four years, and also a smaller percentage increase than in any of the last four years. In addition, our review of import penetration figures indicates that the Canadian share of domestic consumption has dropped from 84 percent in 1986 to 74 percent in the first five months of 1987.

We therefore conclude that massive imports do not exist. Having so concluded, it is not necessary for us to address the issue of whether there is a history of dumping or whether the importers should have known that the merchandise was being sold at less than fair value.

Based on the above information, we believe that massive imports have not occurred and, therefore, we preliminarily conclude that critical circumstances do not exist with respect to imports of potassium chloride from Canada.

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of potassium chloride from Canada that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the *Federal Register*.

The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated amounts by which the foreign market values of potassium chloride exceed the United States price as shown below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Potash Corporation of Saskatchewan.....	51.90
International Minerals and Chemical Corporation.....	9.14
PPG/Kalium.....	29.67
Central Canada Potash.....	85.20
Potash Company of America.....	77.44
All Others.....	36.62

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination, or 45 days after we make our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 9:30 a.m. on October 5, 1987, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, the telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 2, 1987. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

This notice is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Joseph Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

August 20, 1987.

[FR Doc. 87-19577 Filed 8-25-87; 8:45 am]

BILLING CODE 3510-DS-M

Petitions by Producing Firms for Determinations of Eligibility to Apply for Trade Adjustment Assistance

Petitions have been accepted for filing on the dates indicated from the following firms: (1) Triton Industries, Inc., 1020 North Kolmar Avenue, Chicago, Illinois 60651, producer of parts for computers and office machines (February 18, 1987); (2) Buffalo Computer Graphics, 3741 Lake Shore Road, Blasdell, New York 14219, producer of radar simulators (February 25, 1987); (3) Florida Medical Industries, Inc., P.O. Box 510, Leesburg, Florida 32749, producer of thermometers and fever strips (February 27, 1987); (4) Midwestco Enterprises, Inc., 2735 North Ashland Avenue, Chicago, Illinois 60614, producer of electronic transformers (March 3, 1987); (5) CPC, Incorporated, One Circuit Drive, Randolph, Massachusetts 02368, producer of circuit boards (March 3, 1987); (6) The Short Run Stamping Company, Inc., 925 East Linden Avenue, Linden, New Jersey

07036, producer of metal stampings for electronic components (March 6, 1987); (7) Dunleigh-Tuxton Corporation, 1 East 33rd Street, New York, New York 10016, producer of men's neckwear (March 10, 1987); (8) Best Craft Handbags Corporation, 3 East 33rd Street, New York, New York 10016, producer of handbags, wallets, belts, cassette cases (March 11, 1987); (9) Infitec, Inc., P.O. Box 2956, Syracuse, New York 13320, producer of timing devices (March 12, 1987); (10) American Industries, Inc., P.O. Box 463, East Longmeadow, Massachusetts 01028, producer of security alarms and components (March 16, 1987); (11) Perfect Optics, Inc., 2601 South State Street, Ann Arbor, Michigan 48104, producer of optical lenses, prisms & coatings (March 19, 1987); (12) IMS Manufacturing Company, Inc., P.O. Box 8, Lietchfield, Kentucky 42754, producer of men's & women's coats & jackets & women's slacks (March 20, 1987); (13) Catcogue Service of Westchester, Inc., 159 Main Street, New Rochelle, New York 10801, producer of colored catalogue sheets (March 24, 1987); (14) National Fabricator Industries, Ltd., 937 Saw Mill River Road, Yonkers, New York 10710, producer of exercise equipment (March 24, 1987); (15) B and B Diversified Contractors, Inc., 1005 Northwest Jones Avenue, Albany, Oregon 97321, producer of processed emery (March 26, 1987); (16) Rudbar, Inc., 55 South Street, Mount Vernon, New York 10550, producer of TV stands (March 26, 1987); (17) Tulane Luggage Corporation, 592 Johnson Avenue, Brooklyn, New York 11237, producer of attache, cases and other occupational bags and cases (March 26, 1987); (18) DeWitt Apparel, Inc., P.O. Box 438, Uniontown, Alabama 36786, producer of men's and boys' slacks (March 31, 1987); (19) Ron-Vik, Inc., 800 Colorado Avenue South, Minneapolis, Minnesota 55416, producer of strainers and washers of wire mesh (April 3, 1987); (20) Expert-Rex, Inc., 459 West 15th Street, New York, New York 10011, producer of ladies' belts, shaving kits and shoe shine kits (April 6, 1987); (21) Burnett Process, Inc., P.O. Box 331, Syracuse, New York 13206, producer of fiberglass insulating material and hardboard backing materials (April 7, 1987); (22) QDP Computer Systems, Inc., 23632 Mercantile, Beachwood, Ohio 44122, producer of circuit boards (April 7, 1987); (23) Comfy, Inc., 1533 26th Street, Santa Monica, California 90404, producer of auto sheepskin covers, (April 9, 1987); (24) Fredkin Corporation, P.O. Box 600, Mentor, Ohio 44061, producer of component parts for diesel locomotive engines, transmission parts

- for off-highway vehicles and component parts for various other machinery and equipment (April 13, 1987); (25) Crippen Manufacturing Company, Inc., P.O. Box 350, Alma, Michigan 48801, producer of agricultural seed cleaners (April 13, 1987); (26) Master Engraving, Inc., 19 Wallace Street, Elmwood Park, New Jersey 07407, producer of industrial robots, laboratory and testing equipment, and component parts for aircraft (April 15, 1987); (27) Apparat, Inc., 6801 S. Dayton Street, Englewood, Colorado 80112, producer of expansion boards and cables for personal computers (April 21, 1987); (28) Stylex, Inc., 620 Cooper Street, Delanco, New Jersey 08075, producer of office furniture (April 22, 1986); (29) Computer Components, Inc., 629 Fifth Avenue, Pelham, New York 10803, producer of coils and relays (April 22, 1987); (30) TJT Incorporated, P.O. Box 278, Emmett, Idaho 83617, producer of rebuilt running gears for transportation of mobile homes (May 1, 1987); (31) European Jewelry, Inc., 1424 Fourth Avenue, Room 630, Seattle, Washington 98111, producer of rings, pendants, earrings, and bracelets (May 7, 1987); (32) Phoell Manufacturing Company, 5700 West Roosevelt Road, Chicago, Illinois 60654, producer of fasteners (May 5, 1987); (33) Sahlin International, Inc., P.O. Box 289, Birmingham, Michigan 48012, producer of automated press handling equipment, industrial robots (May 11, 1987); (34) Adorable Coat Co., Inc., 85 Tenth Avenue, New York, New York 10011, producer of women's fake fur coats and jackets (May 11, 1987); (35) Jameco Metal Products Co., Inc., Jamaica, New York 11433, producer of women's metal belts (May 7, 1987); (36) Lipe-Rollway Corporation, P.O. Box 4827, Syracuse, New York 13221, producer of roller bearings (May 11, 1987); (37) Anchor Industries, Inc., 1725 London Road, Cleveland, Ohio 44112, producer of motor mounts and drive line supports (May 13, 1987); (38) Spectra Products Corporation, 335 North Griffin Street, Grand Haven, Michigan 49417, producer of forklift fenders and channels for overhead cranes (May 12, 1987); (39) Dunleigh-Tuxton Corporation, 1 East 33rd Street, New York, New York 10016, producer of men's neckwear (May 18, 1987); (40) Midwestco Enterprises, Inc., 2735 North Ashland Avenue, Chicago, Illinois 60614, producer of electric transformers (May 22, 1987); (41) Mitchell Electronics Corporation, 85 West Grand Street, Mount Vernon, New York 10552, producer of transformers of men's and women's coats and jackets (May 21, 1987); (42) Musebeck Shoe Company, 803 Westover Street, Iconomouloc, Wisconsin 53066, producer of men's and women's footwear (June 1, 1987); (43) Fredon Development Industries, Inc., R. D. 2, Box 108, Newton, New Jersey 07860, producer of steel injection models and plastic parts (May 27, 1987); (44) Autotrol Corporation, 365 East Prairie Street, Crystal Lake, Illinois 60014, producer of small electric motors (June 2, 1987); (45) Midwestco Enterprises, Inc., 2735 North Ashland Avenue, Chicago, Illinois 60614, producer of electric transformers (May 22, 1987); (46) Canton Castings, Inc., 2408 13th Street, NE., Canton, Ohio 44705, producer of metal mounting brackets (June 3, 1987); (47) James P. Piedmonte & Sons, Inc., 16662 Telegraph Road, Holley, New York 14470, producer of cabbage, cucumbers, corn, and wheat (June 5, 1987); (48) Bayer Industries, Inc., 951 W. Watlins, Phoenix, Arizona 85007, producer of milling, drilling and tapping machines for iron and steel (June 5, 1987); (49) Koehler Instrument Company, Inc., 1595 Sycamore Avenue, Bohemia, New York 11716, producer of scientific laboratory instruments (June 9, 1987); (50) Plastic Mold Tool & Die Company, Inc., 1 Maple Street, East Rutherford, New Jersey 07073, producer of steel molds, orthopedic surgery devices (June 11, 1987); (51) Alpine Research, Inc., 765 Indian Peaks Road, Golden, Colorado 80403, producer of skis, ski boots, ski poles and ski bindings (June 15, 1987); (52) ATF-Davidson Company, Inc., 355 Main Street, Whitinsville, Massachusetts 01588, producer of offset presses (June 19, 1987); (53) Robinson Sawmill Company, Route 1, Box 1, Weston, Colorado 81091, producer of lumber (June 19, 1987); (54) BRB, Incorporated, 320 Spring Street, Puyallup, Washington, 98372, producer of men's women's jackets and shorts (June 23, 1987); (55) Alpha Awards Limited, 1 Southside Avenue, Hastings-on-Hudson, New York 10706, producer of metal medallions (June 23, 1987); (56) Sagan Industries, Inc., 36-14 35th Street, Long Island City, New York 11106, producer of paper joggers and custom-made, other automated equipment (June 24, 1987); (57) Clearborne Reproductions Corporation, 23-14 College Point Boulevard, College Point, New York 11356, producer of diamond styli (needles) (June 26, 1987); (58) Gillette Machine & Tool Company, Inc., 955 Millstead Way, Rochester, New York 14624, producer of parts for automobiles, cameras, business machines, and optical deviles (July 1, 1987); (59) Gemini Tool & Precision Machining, Inc., 1620 Dewey Avenue, Rochester, New York 14615, producer of camera attachments and parts to copier machines (June 30, 1987); (60) Superior Electric Company, 383 Middle Street, Bristol, Connecticut 06101, producer of motion controls and voltage control (July 7, 1987); (61) Gerraks Fashions, Inc., 1320 West McCay Lane, Santa Maria, California 93455, producer of bridal gowns and fancy frocks (July 2, 1987); (62) Bren-Tronics, Inc., 10 Brayton Court, Commack, New York 11725, producer of batteries (July 10, 1987); (63) The Pilliod Company, Inc., 302 Church Street, Swanton, Ohio 43558, producer of agricultural truck and tractor parts (July 10, 1987); (64) Gallmeyer & Livingston Company, 336 Straight Avenue SW., Grand Rapids, Michigan 49504, producer of metalworking grinding machines for tool cutters for flat surfaces (July 17, 1987); (65) Buckeye Boiler Company, Inc., P.O. Box 865, Dayton, Ohio 45401, producer of metal tanks and reservoirs for contents under pressure (July 28, 1987); (66) Duro Instrument Corporation, 3700 West Oceanside Road, Oceanside, New York 11572, producer of pressure and temperature gauges (July 28, 1987); (67) Sahlin International, Inc., P.O. Box 289, Birmingham, Michigan 48012, producer of industrial robots (July 29, 1987); (68) Lorrol Machine & Tool Company, Inc., 1916 Lyell Avenue, Rochester, New York 14607, producer of cylindrical rollers, metal feed plates and covers, and brackets (August 5, 1987); (69) Electronic Coils, P.O. Box 1665, Springfield, Massachusetts 01101, producer of electronic coils (August 6, 1987); (70) Vega Tool Company, Inc., 1840 Commerce Street, Unit H, Boulder, Colorado 80301, producer of component parts for optical lasers, computers and industrial robots (August 3, 1987); (71) Wenatchee Packing Company, P.O. Box 2717, Wenatchee, Washington 98801, meat processor (August 5, 1987); (72) Woodhaven Dress Company, Inc., 21st Street & Casimir Avenue, Yonkers, New York 10701, producer of women's dresses (August 10, 1987); (73) Roffe, Inc., 808 Howell Street, Seattle, Washington 98101, producer of men's & women's jackets, slacks, sweat suits and ski suits (July 27, 1987); (74) Charlotte Art Glass, Inc., 2194 Lansing Road, Charlotte, Michigan 48813, producer of stained glass windows (August 13, 1987); and (75) Jimmy Jems Activewear, Inc., 2636 Rimrock Drive, Colorado Springs, Colorado 80915, producer of men's shirts, shorts and pants (August 11, 1987).
- The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618), as amended. Consequently, the United States Department of Commerce has initiated separate investigations to determine

whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any part having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Certification Division, Office of Trade Adjustment Assistance, Room 4015A, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Insofar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A-95 regarding review by clearinghouses do not apply.

Rosemary Farmer,

Acting Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 87-19575 Filed 8-25-87; 8:45 am]

BILLING CODE 3510-DR-M

President's Export Council; Open Meeting

A meeting of the President's Export Council will be held September 16, 1987, at the Fairmont Hotel, 950 Mason Street, San Francisco, California. The morning session from 10:00 a.m. - 12:00 noon will include meetings of the U.S. Trade Laws and Disincentives Subcommittee, the Foreign Trade Practices and Negotiations Subcommittee, the Trade Expansion Subcommittee, the International Competitiveness and Productivity Subcommittee and the Export Administration Subcommittee. The Full Council meeting in the afternoon will be held in the Gold Room from 2:00 p.m. - 5:00 p.m. The Council's purpose is to advise the President on matters relating to U.S. export trade.

Agenda; Topic of the Subcommittee meetings: "Trade Concerns of Western States." The theme of the Full Council meeting: "The Future of U.S. Manufacturing," will include such topics as Fiscal Policy and U.S. Competitiveness and The Outlook for U.S. Manufacturing.

The meeting will be open to the public with a limited number of seats available. For further information and

reservations to attend the meeting, call the San Francisco District Office, (415) 556-7722 or (415) 556-7337. For copies of the minutes, contact Sylvia Lino, (202) 377-1125.

Date: August 19, 1987.

Wendy H. Smith,

Director, President's Export Council.

[FR Doc. 87-19576 Filed 8-25-87; 8:45 am]

BILLING CODE 3510-DR-M

[C-489-603]

Countervailing Duty Order; Acetylsalicylic Acid (Aspirin) From Turkey

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that aspirin from Turkey is being subsidized within the meaning of the countervailing duty law. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of aspirin from Turkey are materially injuring a U.S. industry.

Therefore, based on these findings, all unliquidated entries of aspirin from Turkey which were entered, or withdrawn from warehouse, for consumption, on or after March 3, 1987, the date on which the Department published its preliminary countervailing duty determination in the *Federal Register*, and on or before July 1, 1987, the date we instructed the U.S. Customs Service to discontinue the suspension of liquidation, and all entries and withdrawals made on or after the date of publication of this order will be liable for the possible assessment of countervailing duties. Further, a cash deposit of estimated countervailing duties of 6.54 percent *ad valorem* for all companies in Turkey must be made on all entries of aspirin from Turkey, or withdrawals from warehouse, for consumption, made on or after the date of publication of this countervailing duty order in the *Federal Register*. Aspirin produced and exported by Proses Kimya Sanayi ve Ticaret A.S. (Proses) is not subject to this order.

EFFECTIVE DATE: August 26, 1987.

FOR FURTHER INFORMATION CONTACT: Roy Malmrose, Office of Investigations, or Richard Moreland, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202/

377-2815 (Malmrose) or 202/377-2786 (Moreland).

SUPPLEMENTARY INFORMATION: The product covered by this investigation is acetylsalicylic acid, currently provided for in item 410.72 of *Tariff Schedules of the United States*.

In accordance with section 703 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671b), on March 3, 1987, the Department published its preliminary determination that there was reason to believe or suspect that manufacturers, producers, or exporters of aspirin in Turkey received benefits which constitute subsidies within the meaning of the countervailing duty law (52 FR 6367). On July 1, 1987, the Department published its final determination that these imports are being subsidized (52 FR 24494).

On August 12, 1987, in accordance with section 705(d) of the Act (19 U.S.C. 1671d), the ITC notified the Department that subsidized imports of aspirin from Turkey materially injure a U.S. industry.

Therefore, in accordance with sections 706 and 751 of the Act (19 U.S.C. 1671e and 1675), the Department directs U.S. Customs officers to assess, upon further advice of the administering authority pursuant to section 706(a)(1) and 751 of the Act [19 U.S.C. 1671e(a)(1) and 1675], countervailing duties equal to the amount of the estimated net subsidy on all entries of aspirin, except aspirin produced and exported by Proses, from Turkey. These countervailing duties will be assessed on all unliquidated entries of aspirin from Turkey which were entered, or withdrawn from a warehouse, for consumption, on or after March 3, 1987, the date on which the Department published its preliminary affirmative countervailing duty determination notice in the *Federal Register* (52 FR 6367) and on or before July 1, 1987, the date we instructed the U.S. Customs Service to discontinue the suspension of liquidation on future entries, and on all entries and withdrawals made on or after publication of this order in the *Federal Register*. Entries of aspirin after July 1, 1987, and prior to the date of publication of this order in the *Federal Register* are not liable for the assessment of countervailing duties since we cannot impose the suspension of liquidation of the subject merchandise for more than 120 days without the issuance of a final affirmative ITC injury determination.

On or after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit of 6.54 percent *ad valorem* on all entries of

aspirin from Turkey, except aspirin produced and exported by Proses.

This determination constitutes a countervailing duty order with respect to aspirin from Turkey pursuant to section 706(a)(1) of the Act [19 U.S.C. 1671e(a)(1)] and § 355.36 of the Commerce Regulations (19 CFR 355.36). We have deleted from the Commerce Regulations Annex III of 19 CFR Part 355, which listed countervailing duty orders currently in effect. Instead, interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act [19 U.S.C. 1675(a)(1)], the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding this review, contact Richard Moreland at (202) 377-2786.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36).

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

August 18, 1987.

[FR Doc. 87-19696 Filed 8-25-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-091]

Final Results of Antidumping Duty Administrative Review; Certain Electric Motors From Japan

AGENCY: International Trade Administration, Import Administration, Commerce.

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

SUMMARY: On June 5, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain electric motors from Japan. We have not changed the final results from those presented in our preliminary results of review.

EFFECTIVE DATE: August 26, 1987.

FOR FURTHER INFORMATION CONTACT: Laurie A. Lucksinger or David P. Mueller, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/2923.

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1987, the Department of Commerce ("the Department") published in the *Federal Register* (52 FR 21338) the preliminary results of its administrative review of the antidumping duty order on certain electric motors from Japan (45 FR 84994, December 24, 1980). The Department has now completed that review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of alternating current, polyphase electric motors of not less than 150 horsepower but not greater than 500 horsepower, not including submersible well pump motors. Such motors are currently classifiable under items 682.4545, 682.5010, and 682.5030 of the Tariff Schedules of the United States Annotated. The review covers one manufacturer/exporter, Toshiba Corporation ("Toshiba"), of certain electric motors and the period December 1, 1985 through November 30, 1986.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. The antidumping duty margin is 9.3 percent for entries during the period December 1, 1985 through November 30, 1986 of merchandise produced by Toshiba.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions on Toshiba directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties of 9.3 percent shall be required on shipments of certain Japanese electric motors by Toshiba.

For further shipments from the remaining exporters not covered in this review, a cash deposit shall be required at the rates published in the notice of final results of antidumping duty administrative review (49 FR 32627, August 15, 1984) for each of those firms. For any future shipments of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after November 30, 1986 and who is unrelated to Toshiba or any other previously reviewed firm, a cash deposit of 6.3 percent shall be required on shipments of certain Japanese electric

motors. These deposit requirements are effective for all shipments of certain Japanese electric motors entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: August 6, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-19578 Filed 8-25-87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Application for Permit, The Ocean Reef Club (P393)

Notice is hereby given that an Applicant has applied in due form for a Permit to import marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 through 1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: The Ocean Reef Club, Key Largo, Florida 33037.

2. Type of Permit Requested: The Ocean Reef Club, a private resort with a membership fee, requests a public display permit to capture and maintain two Atlantic bottlenose dolphins (*Tursiops truncatus*).

3. Period of Activity: One (1) year.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the *Federal Register*, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the

publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such a hearing is at the discretion of the Assistant Administration for Fisheries.

All statements and opinions contained in this notice of application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC 20009;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33703.

Dated: August 21, 1987.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87-19549 Filed 8-25-87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Export Visa Arrangement and Exempt Certification for Certain Textiles and Textile Articles Produced or Manufactured in Malaysia

August 20, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 1, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States (i.e., the 50 States, the District of Columbia and the Commonwealth of Puerto Rico) for consumption, and withdrawal from warehouse for

consumption, of certain textiles and textile articles, as specified, for which the Government of Malaysia has not issued an appropriate export visa.

Background

A CITA directive dated November 17, 1977 (42 FR 60198), as amended, established an export visa arrangement and exempt certification system for cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Malaysia.

Under the terms of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated July 1 and 11, 1985, as amended and extended, the Governments of the United States and Malaysia have exchanged notes establishing a new export visa arrangement and exempt certification system.

Effective on September 1, 1987, commercial shipments of textiles and textile articles of cotton, wool and man-made fibers, other vegetable fibers, blends of any of the foregoing fibers and blends containing silk but does not include garments which contain 70 percent or more silk by weight, or products other than garments which contain 85 percent or more silk by weight, regardless of value, in Categories 300-354, 359-369, 400-469, 600-654, 659-670 and 831-859, exported on or after September 1, 1987 must be accompanied by a valid visa that includes the correct category(s), part category(s), merged category(s), quantity(s) and unit(s) of quantity or exempt certification as described in the letter published below to the Commissioner of Customs. Shipments of merchandise in Categories 800-810 and 863-899 do not require a visa.

The visa and exempt certification stamps remain unchanged. Any change to the stamped markings must be provided to the Government of the United States prior to its use, to be effective sixty days after approval. The Government of Malaysia shall notify the Government of the United States of any changes of officials authorized to sign visas and exempt certifications.

Interested persons are advised to take all necessary steps to ensure that textiles and textile articles, as described above, produced or manufactured in Malaysia and exported on and after September 1, 1987, which are to be entered or withdrawn from warehouse for consumption into the United States

will meet the requirements set forth in this notice.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 20, 1987.

Committee For The Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington,
D.C. 20229.

Dear Mr. Commissioner: This directive cancels and supersedes the directive issued to you on November 17, 1977, as amended, by the Chairman, Committee for the Implementation of Textile Agreements, which directed you to prohibit entry for consumption or withdrawal from warehouse for the consumption of certain cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia in designated categories for which the Government of Malaysia had not issued an appropriate export visa or exempt certification.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated July 1 and 11, 1985, as amended and extended, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on September 1, 1987, entry into the Customs territory of the United States (i.e., the 50 States, the District of Columbia and the Commonwealth of Puerto Rico) for consumption, and withdrawal from warehouse for consumption, of textiles and textile articles of cotton, wool and man-made fibers, other vegetable fibers, blends of any of the foregoing fibers and blends containing silk but does not include garments which contain 70 percent or more silk by weight, or products other than garments which contain 85 percent or more silk by weight, regardless of value, in Categories 300-354, 359-369, 400-469, 600-654, 659-670 and 831-859, including the part and merged categories listed in Annex A to this letter, produced or manufactured in Malaysia and exported on and after September 1, 1987 from Malaysia for which the Government of Malaysia has not issued an appropriate visa or exempt certification in accordance with the procedures outlined below.

A valid export visa or exempt certification must accompany each commercial shipment of the aforementioned textiles and textile articles. Shipments covering merchandise in Categories 800-810 and 863-899 do not require a visa or exempt certification and should not be denied entry for lack of a visa or exempt certification.

However, should additional categories, merged categories or part categories be added to or changed in the Bilateral

Agreement or become subject to import quotas, the entire category or categories shall be automatically included in the coverage of the visa arrangement. Merchandise exported on or after the date the category(s) is added to the Agreement or becomes subject to import quotas shall require a visa subject to a grace period to establish the required administrative procedures. Notification will be provided when additions or changes are made.

Textiles and textile articles of cotton, wool and man-made fibers, other vegetable fibers, blends of any of the foregoing fibers and silk blends exported from Malaysia on and after September 1, 1987 shall be visaed by the stamping of the original circular visa in blue ink on the front of the original commercial invoice. The original visa shall not be stamped on duplicate copies of the invoice. The original of the invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number and date of issuance. The visa number shall be nine digits and letters, beginning with one numeric digit for the last digit of the year of export, the two character alpha country code specified by the International Organization for Standardization (ISO), and a six digit numeric serial number identifying the shipment; e.g., 7MY123456.
2. The signature of the issuing official.
3. The correct category(s), merged category(s), part category(s), quantity(s), and unit(s) of quantity in the shipment in the unit(s) of quantity provided for in the U.S. Department of Commerce Correlation and in the U.S. Tariff Schedules of the United States Annotated (TSUSA) (e.g., "Cat. 340—510DZ"). Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment (e.g., quota Category 347/348 may be visaed as "Cat. 347/348" or, if the shipment consists solely of Category 347 merchandise, the shipment may be visaed as "Cat. 347," but not as "Cat. 348").

U.S. Customs shall not accept a visa and entry will not be permitted if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted.

If the visa is not acceptable to U.S. Customs, a new visa must be obtained from the Malaysian Government or a visa waiver issued by the U.S. Department of Commerce at the request of the Malaysian Government and presented to the U.S. Customs Service before any portion of the shipment will be released. The waiver, if used, only waives the requirement to present a visa with the shipment. It does not waive the quota requirement.

If the visaed invoice is deficient, the U.S. Customs Service will not return the original

document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or a visa waiver.

If import quotas are in force, U.S. Customs shall charge only the actual quantity in the shipment and the correct category will be charged to the restraint level. If a shipment from Malaysia has been allowed entry into the commerce of the United States with either an incorrect visa or no visa and redelivery is requested but cannot be made, U.S. Customs shall charge the shipment to the correct category limit whether or not a replacement visa or visa waiver is provided.

Certain textiles and textile articles of cotton, wool and man-made fibers, other vegetable fibers, blends of any of the foregoing fibers and silk blends will be exempt from levels of restraint and visa requirements if they are certified, prior to shipment leaving Malaysia, by the placing of the original rectangular-shaped stamped marking in blue ink on the front of the original commercial invoice. The original copy of the invoice with the original exempt certification will be required to enter the shipment into the United States. Duplicate copies of the invoice and/or exempt certification may not be used.

In order to qualify as exempt, products must be hand printed Batik, defined as fabric to which the design has been applied by hand in units of the Malaysian cottage industry.

Each exempt certification stamp will include the following information: (1) date of issuance, (2) signature of issuing official, and (3) the basis for the exemption shall be noted as, for example, handprinted Batik or the name of the particular traditional folklore handicraft product (Malaysian Item) as cited in a list to be agreed upon by the Governments of the United States and Malaysia.

Should a shipment be exported from Malaysia without an exempt certification being issued prior to the date of exportation, or the certification is incorrectly certified (i.e., the date of issuance, signature or basis for the exemption is missing, incorrect or illegible, or have been crossed out or altered in any way), then the exempt certification will not be accepted and entry shall not be permitted.

If the exempt certification is not acceptable then a visa or a visa waiver must be obtained prior to release of any portion of the shipment by U.S. Customs Service. An exempt certification may not be issued after exportation of the shipment from Malaysia. If quotas are in force, the shipment will be charged to the appropriate quota level.

An invoice may cover visaed merchandise or exempt certification merchandise, but not both.

Any shipment which requires a visa but which is not accompanied by a valid and correct visa or a valid exempt certification in accordance with the foregoing provisions shall be denied entry by U.S. Customs Service unless the Government of Malaysia authorizes the entry and any charges to the Agreement levels through the visa waiver process.

The visa and exempt certification stamps remain unchanged.

The actions taken with respect to the Government of Malaysia and with respect to imports of textiles and textile articles of cotton, wool and man-made fibers, other vegetable fibers, blends of any of the foregoing fibers and silk blends from Malaysia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Ronald L. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Annex A

Part Categories

- 317-S TSUSA items 320.—through 331.—with statistical suffixes 50, 87 and 93
- 317-O TSUSA items 320.—through 331.—with statistical suffixes 51, 52, 83, 85, 89, 91 and 95
- 369-S TSUSA 366.2840
- 369-W TSUSA 303.2040
- 369-O All TSUSAs in category except 303.2040 and 366.2840
- 438-W TSUSAs 384.1307, 384.1309, 384.2711, 384.5434, 384.5910, 384.6310, 384.7724 and 384.9640
- 438-O All TSUSAs in category except 384.1307, 384.1309, 384.2711, 384.5434, 384.5910, 384.6310, 384.7724 and 384.9640
- 605-T TSUSA 310.9500
- 605-O All TSUSAs in category except 310.9500
- 647-K TSUSAs 381.2350, 381.2370, 381.2375, 381.2859, 381.6679, 381.8531, 831.8730, 381.8815, 381.8835, 381.8840 and 381.9234
- 648-K TSUSAs 384.1926, 384.1927, 384.1929, 384.1950, 384.2010, 384.2015, 384.2017, 384.2030, 384.2040, 384.2050, 384.2267, 384.2722, 384.5482, 384.7756, 384.8241, 384.9242, 384.8244, 384.8245, 384.8247, 384.8256, 384.8258, 384.8262, 384.8263, 384.8265, 384.8682 and 791.7458

Merged Categories

- 333/334/335/835
- 337/637
- 338/339
- 340/640
- 341/641
- 342/642/842
- 347/348
- 351/651
- 445/446
- 634/635
- 638/639

645/646

647/648

Merged Part Category

605-T/369-W In Category 605, only
TSUSA 310.9500; in Category 369, only
TSUSA 303.2040

[FR Doc. 87-19564 Filed 8-25-87; 8:45 am]

BILLING CODE 3510-DR-M

**Continuation of an Import Limit for
Cotton Textile Products Produced or
Manufactured in the People's Republic
of China**

August 21, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 28, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566-6828. For information on embargoes and quota reopenings, please call (202) 377-3715. For information on categories on which consultations have been requested call (202) 377-3740.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 300/301, produced or manufactured in China and exported during the twelve-month period which begins on August 28, 1987 and extends through August 27, 1988, in the excess of the designated level of restraint.

Background

On August 28, 1986, a notice was published in the *Federal Register* (51 FR 30692) which announced the establishment of import restraint limits for certain cotton and man-made fiber textile products, including Category 300/301, produced or manufactured in the People's Republic of China and exported during the twelve-month north period which began on August 28, 1986, and extends through August 27, 1987, pending agreement on a mutually satisfactory solution concerning this

category between the Governments of the United States and the People's Republic of China. To avoid continued risk of market disruption, the Committee for the Implementation of Textile Agreements, in accordance with section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973 and extended by protocols on December 14, 1977, December 22, 1981 and July 31, 1986; and the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, has decided to renew the restraint level for the twelve-month period which begins on August 28, 1987 and extends through August 27, 1988.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the *Federal Register*.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of the United States Annotated (1987)*.

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the *Federal Register*.

Ronald I. Levin,

*Acting Chairman, Committee for the
Implementation of Textile Agreements.*
August 21, 1987.

**Committee for the Implementation of Textile
Agreements**

Commissioner of Customs,
*Department of the Treasury, Washington, DC
20229.*

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, between the Governments of the

the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 28, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 300/301, produced or manufactured in China and exported during the twelve-month period which begins on August 28, 1987 and extends through August 27, 1988, in excess of 4,341,307 pounds.

Goods shipped in excess of the twelve-month limit established in the directive of August 25, 1986, which began on August 28, 1986 and extends through August 27, 1987 shall be subject to the level set forth in this letter.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533(a)(1).

Sincerely,

Ronald I. Levin,

*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

[FR Doc. 87-19598 Filed 8-21-87; 5:01 pm]

BILLING CODE 3510-DR-M

**Continuation of an Import Limit for Silk
Blend and Other Vegetable Fiber
Sweaters Produced or Manufactured
in the People's Republic of China**

August 21, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 31, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566-6828. For information on embargoes and quota reopenings, please call (202) 377-3715. For information on categories on which consultations have been requested call (202) 377-3740.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for

consumption, or withdrawal from warehouse for consumption, of silk blend and other vegetable fiber sweaters in Category 845/846, produced or manufactured in China and exported during the twelve-month period which begins on August 29, 1987 and extends through August 28, 1988, in the excess of the designated level of restraint.

Background

On January 20, 1987, a notice was published in the *Federal Register* (52 FR 2143) which announced the establishment of an import restraint limit for certain silk blend and other vegetable fiber sweaters in Category 845/846, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on August 29, 1986 and extends through August 28, 1987, pending agreement on a mutually satisfactory solution concerning this category between the Governments of the United States and the People's Republic of China.

Inasmuch as no mutually agreed solution has been reached and to ensure steady and orderly development of trade and to avoid an exacerbation of market disruption, the Committee for the Implementation of Textile Agreements, in accordance with paragraph 8 of the 1986 Protocol of Extension of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973 and extended by protocols on December 14, 1977, December 22, 1981 and July 31, 1986, has decided to renew the restraint level of the twelve-month period which begins on August 29, 1987 and extends through August 28, 1988. Overshipments of the previous restraint level in the amount of 430,073 dozen are being charged to the restraint level established in this directive.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the *Federal Register*.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the

Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the *Federal Register*.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 21, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 31, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of silk blend and other vegetable fiber textile products in Category 845/846,¹ produced or manufactured in China and exported during the twelve-month period which begins on August 29, 1987 and extends through August 28, 1988, in excess of 1,001,167 dozen.²

Goods shipped in excess of the twelve-month limit which began on August 29, 1986 and extends through August 28, 1987, which currently amount to 167,166 dozen, shall be subject to the level set forth in this letter. Effective on August 31, 1987, you are directed to charge 262,907 dozen in missing charges to the restraint limit for Category 845/846 for goods imported during the period January 1-20, 1987.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533(a)(1).

¹ All TSUSA numbers except 381.3574, 381.3578, 381.6685, 381.8554, 381.9985, 384.2733, 384.2735, 384.5316, 384.7781, 384.9694.

² For goods produced or manufactured in China and exported in Category 845(2) and 846(2) under TSUSA numbers 381.3574, 381.3578, 381.6685, 381.8554, 381.9985, 384.2733, 384.2735, 384.5316, 384.7781, 384.9694, a proper visa from Hong Kong is required under the directive of July 25, 1986. If such a visa is not presented, these goods shall be denied entry under this directive and the directive of July 25, 1986.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-19599 Filed 8-21-87; 5:01 pm]

BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

Interagency Committee on Cigarette and Little Cigar Fire Safety; Technical Study Group Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting and availability of draft report.

SUMMARY: The Technical Study Group on Cigarette and Little Cigar Fire Safety will meet on September 10 and 11, 1987, in Washington, DC to receive oral presentations from the public concerning a draft of the final technical report specified by the Cigarette Safety Act of 1984, as amended. Individual copies of the draft report will be available without charge.

DATE: The meeting will be September 10 and 11, 1987, from 9:30 a.m. to 5:00 p.m. The draft report will be available to the public on or about September 4, 1987.

ADDRESS: The meeting on September 10 will be in the Auditorium, first floor, Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, DC. The meeting on September 11, will be in room 703A of the Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, DC. Persons who desire to make oral presentations should notify Colin B. Church, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492-6554. Individual copies of the draft report will be available by writing or calling Ms. Terri Buggs, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492-6554.

FOR FURTHER INFORMATION CONTACT: Ms. Terri Buggs, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6554.

SUPPLEMENTARY INFORMATION: The Cigarette Safety Act of 1984 (Pub. L. 98-567, 98 Stat. 2925, October 30, 1984; as amended by section 110, Pub. L. 99-591, October 30, 1986) created the Technical Study Group of Cigarette and Little

Cigar Fire Safety to prepare a final technical report concerning the technical and commercial feasibility of developing cigarettes and little cigars with a minimum propensity to ignite upholstered furniture and mattresses.

The Technical Study Group will meet on September 10 and 11, 1987, to receive oral presentations from the public concerning a draft of the final report specified by the Cigarette Safety Act of 1984, as amended, and to discuss those presentations and the draft report.

Persons desiring to make oral presentations at the meeting of September 10 should notify the Technical Study Group as soon as possible and submit a brief summary of each presentation to Colin B. Church, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492-8554. Persons making presentations should not repeat any information they have previously given at public meetings of the Technical Study Group in 1985 and 1986. Presentations should be limited to approximately 20 minutes. Additional restrictions may be imposed on the length of presentations depending upon the number of persons who wish to speak. The Technical Study Group is not soliciting and does not expect to discuss confidential business information.

After receiving oral presentations for the public, the Technical Study Group will meet to discuss the presentations and consider any revisions to the draft report which may be appropriate in response to those presentations. This portion of the meeting will be open to observation by the public, but only members of the Technical Study Group may participate in the discussion.

A draft of the final technical report of the Technical Study Group is expected to be available to the public on or about September 4, 1987. A single copy of the draft report will be sent without charge to each person on the Cigarette Safety Act mailing list as soon as the report is available. Others who want to obtain a copy of the draft report without charge should write or call Ms. Terri Buggs, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-8554. The draft may be changed before the Technical Study Group issues the final technical report specified by the Cigarette Safety Act, as amended.

Dated: August 20, 1987.

Colin B. Church,

Federal Employee Designated by the Interagency Committee on Cigarette and Little Cigar Fire Safety.

[FR Doc. 87-19529 Filed 8-25-87; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information:

- (1) Type of submission;
- (2) Title of Information Collection and applicable OMB Control Number and Form Number;
- (3) Abstract statement of the need for and the uses to be made of the information collected;
- (4) Type of Respondent;
- (5) An estimate of the number of responses;
- (6) An estimate of the total number of hours needed to provide the information;
- (7) To whom comments regarding the information collection are to be forwarded; and
- (8) The point of contact from whom a copy of the proposed information collection may be obtained.

This information collection is as follows:

- (1) New information collection
- (2) "ASVAB Counselor and Student Questionnaires," Survey Form;
- (3) The purpose of these questionnaires is to obtain information from high school counselors and students about the use and usefulness of the materials available in conjunction with Armed Services Vocational Aptitude Battery (ASVAB-14) Student Testing Program. This information is being collected so that when new materials are created for ASVAB-18 program, they will be maximally useful for their intended population.
- (4) Students and counselors;
- (5) Current responses of 6,600;
- (6) Current burden hours of 3,300;

ADDRESSES: (7) Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215

Jefferson Davis Highway, Suite 1204, Arlington, Virginia, Virginia 22202-4302, telephone 202/746-0933.

FOR FURTHER INFORMATION CONTACT:

(8) A copy of the information collection proposal may be obtained from Mr. Vitiello, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone 202/746-0933.

Patricia H. Means,
*OSD Federal Register Liaison Officer,
Department of Defense.*

August 20, 1987.

[FR Doc. 87-19527 Filed 8-25-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Reinstatement

MARS Member Station Questionnaire Transcript (AFCC Form 132) (OMB No. 0701-0021)

The Military Affiliate Radio System (MARS) program uses the AFCC Form 132 to collect data about MARS members and their capabilities in the MARS program. The form requests the name, call sign, address, and emergency capability of the member. It is a concise and simple method for recording the data needed about the capabilities of member stations. Various computer lists are developed from this simple form for use by State, regional, and national officials, as well as Master Net Control Stations. It is a vital link between the Air Force and its Mars affiliate member stations.

MARS program affiliate stations

Responses 3,600
Burden hours 1,200.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone number (202) 746-0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. H.R. Collins, Chief, USAF MARS, HQ AFCC/DOOC, Scott AFB, IL 62225-6001, telephone (618) 256-5552..

Patricia H. Means,
OSD Federal Register Liaison Officer,
Department of Defense.

August 20, 1987.
[FR Doc. 87-19526 Filed 8-25-87; 8:45 am]
BILLING CODE 3810-01-M

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information; Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact for whom a copy of the information proposal may be obtained.

Extension

Application for the Review of Discharge or Dismissal from the Armed Forces of the United States; DD Form 293 (OMB No. 0704-0004)

The DD Form 293 is the form used by former members of the military services to request a change in the type of discharge or the reason for their separation from the military.

Individuals or households
Responses: 14,000
Burden Hours: 7,000.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone number (202) 746-0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Ms. Angela R. Petrarca, SAIS-ADR, Room 1C638, The Pentagon, Washington, DC 20310-0107, telephone (202) 694-0754.

Patricia H. Means,
OSD Federal Register Liaison Officer,
Department of Defense.

August 20, 1987.
[FR Doc. 87-19528 Filed 8-25-87; 8:45 am]
BILLING CODE 3810-01-M

Department of the Navy

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Academic Certification for Marine Corps Officers Candidate Program, 0703-0011
NAVMC 10469.

This form is used by the Marine Corps as a standardized method of determining the academic eligibility of applicants for all Reserve Officer Candidate Programs. If it were not utilized, status of applicants could not be determined.

Individuals
Responses 3000
Burden hours 750.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson-Davis Highway, Suite 1204, Arlington, VA 22202-4302, telephone (202) 746-0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Major J.W. Sondermann, Headquarters, U.S. Marine Corps, Washington, DC 20380-0001, telephone (202) 694-1017.

Patricia H. Means,
OSD Federal Register Liaison Officer,
Department of Defense.

August 20, 1987.
[FR Doc. 87-19525 Filed 8-25-87; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 87-34-LNG]

Application To Import Liquefied Natural Gas From Algeria; Pan National Gas Sales, Inc.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application for blanket authorization to import liquefied natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on June 30, 1987, of an application filed by Pan National Gas Sales, Inc. (Pan National), a wholly owned subsidiary of Panhandle Eastern Corporation (PEC), for a 20-year blanket authorization to import Algerian liquefied natural gas (LNG) from Sonatrading Amsterdam B.V. (Sonatrading), a Netherlands company that is wholly owned by Sonatrach, the state oil and gas company of Algeria.

The application was filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, or notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than September 25, 1987.

FOR FURTHER INFORMATION CONTACT: John Glynn, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076,

1000 Independence Avenue, SW.,
Washington, DC 20585, (202) 586-9482
Diane Stubbs, Natural Gas and Mineral
Leasing, Office of General Counsel,
U.S. Department of Energy, Forrestal
Building, Room 6E-042, 1000
Independence Avenue, SW.,
Washington, DC 20585, (202) 586-6667

SUPPLEMENTARY INFORMATION: Pan National, a Delaware corporation with its principal office in Houston, Texas, is a wholly owned subsidiary of PEC. PEC, a holding company, also has other affiliates or subsidiaries, including the Panhandle Eastern Pipe Line Company, (PEPL), Trunkline Gas Company (Trunkline), Trunkline LNG Company (TLC), Panhandle Trading Company (PTC), and Pan Transportation Inc. (Pan Transport). The applicant states that the volumes of LNG proposed to be imported will be purchased pursuant to a purchase agreement dated April 26, 1987, transported to the U.S. in existing LNG tankers to be supplied by Sonatrach and Pan Transport, received and regasified by TLC at its Lake Charles, Louisiana, terminal, and resold to various unspecified customers at market-responsive prices under spot, intermediate or longer-term arrangements, depending on current market conditions.

By its application, Pan National seeks approval to import up to 3,300 million Btu or approximately 3.3 Tcf of LNG (FOB Algeria) over a period of up to 20 years. However, the applicant points out that if LNG purchases are resumed under the September 17, 1975, LNG purchase contract between TLC and Sonatrach, obligations under the proposed import arrangement would be limited to the existing sales arrangements previously agreed to by all parties prior to resumption. The 1975 contract was the basis for a 20-year, 3.4 Tcf LNG import authorization granted by the Federal Power Commission in Opinion Nos. 796 and 796-A at Docket Nos. CP74-138, *et al.*, 58 FPC 2935 (1977). Purchases of LNG pursuant to the 1975 contract were made from September 1982 through December 1983; however, in December 1983 TLC indefinitely suspended purchases because of marketing difficulties.

In its application, Pan National contemplates the sale of LNG supplies for short-term, spot purchases, base load use, and for winter peaking needs to a wide variety of potential customers, including gas distribution companies, brokers or marketers, and large volume end-users throughout the United States. The applicant states that it has contracted with PTC, its marketing and brokerage company affiliate, to provide

initial market planning and development and continuing marketing services. The terms of each prospective sales transaction under this import arrangement will be subject to approval by both Pan National and Sonatrach, including price, term and volumes. Once the terms are approved, Sonatrach will be obligated to supply the necessary volumes, and Pan National will proceed to execute the negotiated sales agreement. Pan National states that the FOB price it pays to Sonatrach for the LNG will equal 63.24 percent of the average per unit (MMBtu) sales price, multiplied by the number of MMBtu loaded FOB Algeria. Pan National, in turn, will receive the remaining percentage (36.76) of the sales price to cover transportation, bunker fuel, and regasification costs. If the anticipated sales price is not sufficient to recover the incremental costs to Pan National and Sonatrach, no LNG will be imported.

The applicant states that the proposed import arrangement is designed to accommodate changes in market conditions and will result in prevailing market responsive prices. The gas purchase agreement contains no minimum purchase requirement, and the applicant would be required only to take and pay for quantities specifically contracted for with customers. Contracts for transportation and terminal services only obligate Pan National to pay the actual incremental costs involved in obtaining these services, and the transportation agreement contains no ship-or-pay commitment.

The applicant proposes to notify the ERA of the first delivery of LNG into the U.S. within fifteen days of such delivery. Additionally, it also proposes to file quarterly reports to the ERA describing the transactions made under its import authorization, including volumes imported, average selling price, and markets served.

In support of its application, Pan National maintains that the import proposal will further the implementation of DOE policy objectives by "fostering the development of a fully functioning and responsive market for natural gas", and by providing a source of competitively priced natural gas supplemental to domestic supplies. Furthermore, Pan National also maintains that approval of its import application will support the "productive use of extensive existing facilities and their continued viability as an important long-term resource in meeting future energy requirements."

The decision on this application will be made consistent with DOE's gas import policy guidelines, under which

the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issues of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that the ERA may limit the term of any blanket authority granted in this docket and may proportionately reduce the volumes.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m., e.d.t., September 25, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. A request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material

and relevant to a decision in the proceeding. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts. If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of the Pan National's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 19, 1987.

Constance L. Buckley,
Director, Natural Gas Division, Office of
Fuels Programs, Economic Regulatory
Administration.

[FR Doc. 87-19596 Filed 8-25-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. PP-84]

Issuance of an Order Granting Time Extension; Central Maine

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Issuance of an Order granting time extension.

SUMMARY: On August 17, 1987, the Economic Regulatory Administration (ERA) issued an order to Central Maine Power Company (CMP) granting an extension of the time within which CMP may file answers to all petitions for intervention in the Presidential permit proceeding Docket No. PP-84.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Como, U.S. Department of Energy, Office of Fuels Programs (RG-22), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-5935.

Lise Courtney M. Howe, U.S. Department of Energy, Office of General Counsel (GC-41), 1000 Independence Avenue, SW.,

Washington, DC 20585, (202) 586-2900.

SUPPLEMENTARY INFORMATION: On August 14, 1987, Central Maine Power Company (CMP) filed a request with the Economic Regulatory Administration for

an extension of time within which to file CMP's answer to all petitions for intervention in the Presidential permit proceeding Docket No. PP-84. Pursuant to Rule 2008, 18 CFR 385.2008, CMP requested that the time to answer, provided in 18 CFR 385.214, be extended from fifteen days after each petition is filed to fifteen days after the last day of the public comment period, i.e., Tuesday, September 15, 1987. CMP requested this extension to allow for a more orderly and efficient proceeding without prejudicing any other person.

ERA notes that CMP's petition follows ERA's decision on July 31, 1987, to extend the time within which public comments, protests and interventions could be filed from August 5, 1987, to August 31, 1987 (52 FR 28481). Three petitions to intervene (No Thank Q Hydro-Quebec, Pennsylvania-New Jersey-Maryland Interconnection, and Boston Edison) already have been filed with ERA, and it is possible that others may be filed on or before August 31, 1987.

ERA is authorized, pursuant to 18 CFR 385.2008, for good cause shown to extend the time by which CMP is required to respond to petitions for intervention in this proceeding. ERA agrees with CMP that permitting it to respond to all of the petitions following the close of the comment period on August 31, 1987, rather than requiring CMP to respond to each petition within fifteen days after the filing of such petitions, would make for a more orderly and efficient proceeding; and that an extension of the time period to September 15, 1987, would not prejudice any of the existing or potential parties to this proceeding.

It is ordered that:

(A) The request filed by Central Maine Power Company for an extension of time within which to file answers to petitions to intervene in the Presidential permit proceeding Docket No. PP-84 to Tuesday, September 15, 1987, is granted.

(B) Central Maine Power Company is required, until September 15, 1987, to serve any filings or other submissions which it makes with ERA on No Thank Q Hydro-Quebec, the Pennsylvania-New Jersey-Maryland Interconnection, Boston Edison, and any others which may file petitions to intervene before August 31, 1987, thereby treating these parties during this interim period as though they have been granted temporary status as intervenors in this proceeding.

Issued in Washington, DC, on August 17, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic
Regulatory Administration.

[FR Doc. 87-19595 Filed 8-25-87; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

Senior Executive Service; Performance Review Board Members; Appointments

ACTION: Notice of SES Performance Review Board Appointments.

SUMMARY: This notice lists those persons who have been appointed to serve on the Performance Review Board standing register for the Department of Energy. This supplements the listing published in 51 FR 32353 on September 11, 1986.

EFFECTIVE DATE: These appointments are effective on August 20, 1987.

FOR FURTHER INFORMATION CONTACT:

Barbara J. Hall, MA-204.1, U.S. Department of Energy, Office of Personnel, (202) 586-8477.

SUPPLEMENTARY INFORMATION:

Section 4314(c) of Title 5, United States Code (as amended by the Civil Service Reform Act of 1978), requires that the Department of Energy establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Board(s) to review and evaluate the initial rating and make a final written recommendation on performance appraisals assigned to the Departmental members of the Senior Executive Service.

The newly appointed Performance Review Board members shall make written recommendations to the Executive Personnel Board concerning SES performance ratings, bonuses, awards, and performance related actions.

The new members of the SES Performance Review Board are:

William Bernsdorf
Peter Brush
David Goldman
Richard Hahn
Steven Hickok
Thomas Isaacs
Vito Magliano
John Milloway
Robert Morgan
John Notestein
Gerald Prudom
Wolfgang Repke
Michael Roberts
Jack Roeder
Margaret Sibley
Charles Simpson
Marvin Singer

Edward Williams
William Williams

Issued in Washington, DC, on August 14, 1987.

Harry L. Peebles,
Executive Secretary, Executive Personnel
Board.

[FR Doc. 87-19593 Filed 8-25-87; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Power Rate for the Pick-Sloan Missouri Basin Program—Eastern Division

AGENCY: Western Area Power
Administration, Department of Energy.

ACTION: Notice of Power Rate for
Economy Energy Sales and Order
Placing This Rate into Effect on a Final
Basis—Pick-Sloan Missouri Basin
Program—Eastern Division (P-SMBP-
ED).

SUMMARY: In a June 9, 1987, Federal Register notice, the Western Area Power Administration (Western) announced plans to implement a power rate for Economy Energy sales. Following the analysis of the public comments received as a result of this proposal, Western has finalized and is placing into effect a rate for Economy Energy for the P-SMBP-ED as follows: The rate for Economy Energy is based upon the pricing for short-term energy sales among power suppliers within the interconnected systems.

The continued marketing of that portion of P-SMBP-ED surplus energy which is sold as Fuel Replacement Energy is operationally restrictive and difficult to comply with from a contract administration standpoint. Timely implementation of the rate for Economy Energy, while retaining the Fuel Replacement Energy class of service, will eliminate current difficulties. Therefore, the rate for Economy Energy is effective upon publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT:
Mr. James D. Davies, Area Manager,
Billings Area Office, Western Area
Power Administration, P.O. Box EGY,
Billings, MT 59101, (406) 657-6532.

SUPPLEMENTARY INFORMATION:

Western's Billings Area Office (BAO) is encountering difficulty in the marketing of Fuel Replacement Energy under the existing pricing mechanism. BAO sells short-term surplus energy to entities that reduce power production from, or shut down, fossil-fueled power plants to conserve fuel. The pricing for that energy is 85 percent of the cost of the saved fuel plus 50 percent of any other

savings realized by the purchaser. Selling surplus energy at 85 percent of a plant's fuel cost provided a basis for pricing, and could be adhered to when a specific unit could be easily identified. The price of the energy was directly related to the results obtained; i.e., saved fuel. However, present day situations in the utility industry have changed from when the sale of Fuel Replacement Energy was initiated more than 20 years ago. Today, major utilities have numerous plants in daily operation which may vary in size from relatively small to extremely large and which have a wide range of operating costs. Because of multiple-unit operations, utilities often reduce power generation of more than one unit when buying energy from another utility. A utility's highest cost unit is not always the one reduced in power level because of such considerations as "take or pay" coal contracts or transmission constraints. Minimum power levels of large plants also affect which units may be backed down.

Economic dispatch is also evolving among utilities, as in the State of Iowa, where a newly formed organization will be conducting surplus energy transactions on the basis of the composite hourly costs of most of the investor-owned units in Iowa. Superimposed upon all of the factors noted above is the matter of large regional surpluses which result in a highly competitive market. Because of these considerations, pricing of short-term energy transactions among power supplier is driven by factors other than fuel savings at a particular plant. As a result, it is increasingly more difficult, and less reflective of reality, for Western to base short-term surplus energy prices on fuel savings associated with a specific generating unit.

The BAO considers that many short-term surplus energy sales which have previously been conducted as Fuel Replacement Energy sales can be more appropriately conducted under the proposed category of Economy Energy. Conservation of fuel will still be accomplished and can be quantified as at present, but the energy prices will directly reflect all of the factors which establish short-term energy prices among thermal suppliers. As with all of BAO's short-term surplus energy sales, this class of service is designed for those interconnected area utilities that continuously generate power for themselves and/or others. Any transmission costs or losses beyond the limits of the Federal transmission system will be the responsibility of the purchaser. At present, a number of utilities interconnected with the Federal

transmission system do not purchase fuel replacement energy. These utilities are able to purchase surplus energy from others at costs less than 85 percent of fuel savings for their relatively more costly units. In this regard, the adoption of Economy Energy as a class of service can be expected to increase the number of utilities to whom Western will be able to market short-term surplus energy.

Expected Change in Annual Revenue

The BAO does not anticipate that Economy Energy sales will provide a revenue change, from what would otherwise be obtained from Fuel Replacement Energy sales, because there will not be an increase in the amounts of energy for sale. Nor is it anticipated that there will be a significant change in overall hydro energy prices as a result of this change in ratesetting methodology.

Discussion of Issues—Public Comments

During the 30-day public comment period, Western received 10 comment letters and 1 letter requesting additional information. All of the comment letters were from interconnected utilities and were supportive of the proposal. The additional information requested by one entity concerns the criteria a utility must meet to qualify for this type of service. In that regard, Economy Energy, as well as all other P-SMBP-ED surplus hydro energy, is sold to utilities who continuously generate power for themselves and/or others. Surplus energy is not sold to utilities that have generation only on standby, used for reserves, or run only occasionally for emergencies or for test purposes.

Procedural Authorization

Power rates for the P-SMBP-ED are established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101, *et seq.*); the Reclamation Act of 1902 (43 U.S.C. 372, *et seq.*), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); the Flood Control Act of 1944 (16 U.S.C. 825s); and the acts specifically applicable to the project system involved.

The Secretary of Energy issued Delegation Order No. 0204-108 on December 14, 1983 (48 FR 55664), amended May 30, 1986 (51 FR 19744). The order contains several provisions including delegation to Western's Administrator of the authority to develop and place in effect on a final basis power and transmission rates for short-term sales.

Environmental Compliance

Western has conducted an analysis of this rate increase pursuant to the National Environmental Policy Act of 1969 and Department of Energy regulations published in the **Federal Register** on March 28, 1980 (45 FR 20694-20701), as amended on January 6, 1983 (48 FR 685 through 686), and on February 25, 1985 (50 FR 7629 through 7630). The regulations provide that:

1. Rate proposals for power marketing services which produce an increase in revenue, no greater than the rate of inflation, normally do not require the preparation of an environmental assessment (EA) nor an environmental impact statement (EIS).

2. Contracts for short-term or seasonal (less than 1 year) allocations of existing or excess power resources to customers who can receive the resources over existing transmission facilities do not require the preparation of either an EA or an EIS, in accordance with National Environmental Policy Act guidelines.

Because the proposed new rate for Economy Energy service is for an optional short-term service, would not result in an increase in revenues, and clearly would have no significant environmental impact, the proposed action does not require the preparation of an EA or an EIS. Documentation supporting this decision is on file in Western's Billings Area Office.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment a regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the proposed action for P-SMBP-ED relates to nonregulatory services provided by Western. Under 5 U.S.C. 601(2), rates of service or particular applicability are not considered "rules" within the meaning of the act. Since this proposed new rate for P-SMBP-ED power is of limited applicability, and is being set in accordance with specific regulations and legislation under particular circumstances, Western believes that no flexibility analysis is required.

Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Western

has an exemption from sections 3, 4 and 7 of Executive Order 12291.

Order

In view of the foregoing, and pursuant to the authority delegated to me by the Secretary of Energy in Delegation Order No. 0204-108, dated December 14, 1983, as amended, I hereby approve and place into effect on a final basis, effective immediately, a new rate for Economy Energy to be based upon the pricing for short-term energy sales among power suppliers within the interconnected system of the P-SMBP-ED.

Issued at Golden, Colorado, August 14, 1987.

William H. Clagett,

Administrator.

[FR Doc. 87-19594 Filed 8-21-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180743; FRL 3252-1]

Receipt of Application for a Specific Exemption To Use Mancozeb; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the California Department of Food and Agriculture (hereafter referred to as the "Applicant") for use of mancozeb (CAS 8018-01-7) to control the fungi, *Alternaria alternata*, on 5,000 acres of dates in California. In accordance with 40 CFR 166.24, EPA is soliciting comment before making the decision whether or not to grant this specific exemption request.

DATE: Comments must be received on or before September 10, 1987.

ADDRESS: Three copies of written comments, bearing the identifying notation "OPP-180743," should be submitted by mail to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

In person, bring comments to: Room 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with

procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record.

Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Room 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Libby Pemberton, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 716A, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue an emergency exemption to permit the use of the fungicide, mancozeb available as Dithane M-45-S Dust (California State Registration No. 11169-50008 AA) from San Joaquin Sulphur Co., to control *Alternaria* infections on 5,000 acres of dates in California.

Information in accordance with 40 CFR Part 166 was submitted as part of this request. The Applicant indicates that Ferbam dust, the only product registered for control of *Alternaria* on dates, is no longer manufactured by FMC Corporation and is no longer available. According to the Applicant, without effective control, date growers could experience 30 to 50 percent crop losses. With the use of Dithane M-45-S Dust, growers expect their crop losses to be less than 5 percent. The 1987 crop was valued at \$37.4 million.

Dithane M-45-S Dust will be applied at a maximum rate of 30 pounds product per acre. Up to three applications at 15-day intervals may be made. A maximum of 450,000 pounds product will be needed to treat a maximum of 5,000 acres. Applications will be completed by November 15, 1987.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the **Federal Register**

and solicit public comment on an application for a specific exemption proposing use of a pesticide which contains an active ingredient which is or has been the subject of a Special Review and is intended for a use that could pose a risk similar to the risk posed by any use of the pesticide which is or has been the subject of the Special Review (40 CFR 166.24(a)(5)). A Notice of Initiation of Special Review of EBDC Pesticides, which include mancozeb, was published July 17, 1987 (52 FR 27172). The risks considered in that document which could be similar to the risks posed by this proposed use are: Oncogenicity; teratogenicity; and thyroid toxicity. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period.

Date: August 18, 1987.

Herbert S. Harrison,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-19524 Filed 8-25-87; 8:45 am]

BILLING CODE 6560-50-M

[FIFRA Docket No. 562, et al.; FRL-3252-3]

Pesticide Products Containing Diazinon; Hearing; Ciba-Geigy Corp., et al., Petitioner

In accordance with 40 CFR 164.8, notice is given that a hearing on the captioned proceeding under section 6 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136(d)), will commence at 10:00 a.m. on Monday, August 24, 1987, in Conference Room 3, Waterside Mall, 401 M Street SW., Washington, DC. The hearing will be conducted in accordance with the Rules of Practice governing hearings under FIFRA (40 CFR Part 164) and in particular Subpart B thereof. Issues to be considered in the hearing are set forth in the Notice published by the Administrator, 51 FR 35034 (October 1, 1986), as amended by 51 FR 45039 (December 16, 1986), and 52 FR 5656 (February 25, 1987). For information on the several parties to this proceeding and their positions on the various issues, interested persons may examine the file in the office of the Hearing Clerk, Room 3708, Waterside Mall, 401 M Street SW., Washington, DC.

Dated this 21st day of August 1987.

Gerald Harwood,

Chief Administrative Law Judge.

[FR Doc. 87-19645 Filed 8-25-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

August 19, 1987

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on these submissions contact Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: None

Title: Section 73.54, Antenna resistance and reactance measurements

Action: Existing collection in use without OMB control number

Respondents: Businesses (including small businesses)

Frequency of Response: Recordkeeping requirement

Estimated Annual Burden: 590

Recordkeepers; 590 Hours

Needs and Uses: Section 73.54 requires that background information regarding antenna resistance measurement data for AM stations be kept on file at the station. Data is used by FCC staff in field investigations to ensure measurements are taken properly and by AM licensees to identify any problems that may occur.

OMB Number: 3060-0175

Title: Section 73.1250, Broadcasting emergency information

Action: Extension

Respondents: Businesses (including small businesses)

Frequency of Response: On occasion

Estimated Annual Burden: 250

Responses; 250 Hours

Needs and Uses: Section 73.1250 requires that AM station licensees submit a report to the FCC regarding the emergency information broadcast over increased facilities. Emergency situations in which the broadcasting of information is considered as furthering the safety of life and property include, but are not limited to, tornadoes, hurricanes, floods, tidal waves, earthquakes, and school closings. The

data is used by FCC staff to evaluate the need and nature of the emergency broadcast to confirm that an actual emergency existed.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-19503 Filed 8-25-87; 8:45 am]

BILLING CODE 6712-01-M

Specialized Mobile Radio Service Frequencies To Be Available for Reassignment

August 10, 1987.

The following channels were recently recovered from licensees who failed to meet the Commission's loading or construction requirements and will be available for reassignment to trunked Specialized Mobile Radio (SMR) applicants. They were previously licensed at the coordinates indicated and are available at any location within the geographic area which will protect existing SMR systems pursuant to Rules 90.362 and 90.621.

856/858.0875 MHz, Oldsmar, FL, 28-02-20 North, 82-39-29 West

856/860.5625 MHz, Clayton, MO, 38-38-51 North, 90-20-13 West

861/865.9500 MHz, Tucson, AZ, 32-26-30 North, 110-46-51 West

856/860.1375 MHz, San Antonio, TX, 29-28-37 North, 98-36-42 West

856/860.0625 MHz, West Lake Hills, TX, 30-18-21 North, 97-50-28 West

861/865.7000 MHz, Tucson, AZ, 32-26-30 North, 110-46-51 West

863.9375, 864.3875, 864.8375, 865.2875, 865.7375 MHz, Buffalo, NY, 42-52-29 North, 78-51-12 West

856/860.5125 MHz, Clayton, MO, 38-38-51 North, 90-20-13 West

856/860.1375 MHz, New Orleans, LA, 29-56-55 North, 90-03-47 West

856/860.7875 MHz, Canton, OH, 40-44-03 North, 81-24-48 West

856/860.1625 MHz, San Antonio, TX, 29-30-37 North, 98-34-13 West

856/860.5875 MHz, Minneapolis, MN, 44-58-31 North, 93-16-19 West

Pursuant to the Public Notice of January 6, 1986, Mimeo No. 1805, these channels will be available for reassignment on September 9, 1987. All applications received before September 9, 1987 will be dismissed. The first application received after the channels become available for reassignment opens the filing window. The window stays open only for the day on which the first application is received. All applications MUST reference the date and DA number of this Public Notice in

order to be considered for these frequencies.

There is a \$30.00 fee required for each application filed. All checks should be made payable to the FCC. Applications should be mailed to: Federal Communications Commission, 800 Megahertz Service, P.O. Box 360416M, Pittsburgh, PA 15251-6416. Applications may also be filed in person between 9:00 am and 3:00 pm at the following address: Federal Communications Commission, c/o Mellon Bank, Three Mellon Bank Center, 525 William Penn Way, 27th Floor, Room 153-2713, Pittsburgh, PA 15259, Attention: (Wholesale Lockbox Shift Supervisor).

For further information, refer to Public Notice of January 6, 1986 or contact Riley Hollingsworth or Betty Woolford (202) 632-7125 of the Private Radio Bureau's Land Mobile and Microwave Division.

Federal Communications Commission,
William J. Tricarico,
Secretary.

[FR Doc. 87-19504 Filed 8-25-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; American Transport Lines, Ltd. et al.

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.: 207-011142.

Title: NOSAC Agreement.

Parties:

K/S NOSAC A/S & Co.
Wilh. Wilhelmsen Limited A/S
K/S Benargus A/S & Co.

Synopsis: The proposed agreement would establish a joint service between the parties for the carriage of cargo between U.S. Atlantic, Gulf and Pacific ports and all points via such ports and Atlantic ports in Spain, East and West

Germany, Poland, Portugal, France, Belgium and the Netherlands; Scan/Baltic ports in Denmark, Norway, Sweden and Finland; and ports in the United Kingdom and Ireland and all points via such ports. The joint service will be administered by Oivind Lorentzen A/S. The parties have requested a shortened review period.

Agreement No.: 232-011143.

Title: American Transport Line/Regency Navigation Co., Ltd. Space Charter Agreement.

Parties:

American Transport Lines, Ltd.
Regency Navigation Co., Ltd.

Synopsis: The proposed agreement would permit the parties to charter space on one another's vessels operating in the trade between United States ports and ports in Europe, to interchange containers and related equipment in the trade and to cooperate in rationalizing their vessel sailings and schedules in the trade. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: August 21, 1987.

[FR Doc. 87-19548 Filed 8-25-87; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed; Fred Imbert, Inc.; et al.

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.: 244-200025.

Title: Port of Houston Terminal Agreement.

Parties:

Port of Houston Authority (Port)
Universal Shipping Agencies, Inc.
(Assignee)

Synopsis: The proposed agreement provides for Assignee, an independent contractor, to perform or have performed freight handling services at the Port's Wharves and Transit Sheds Number 8 and 9 subject to charges, rates, rules, and regulations in the Port's Tariff No. 8. The term of this agreement ends December 31, 1988.

Agreement No.: 244-200026.

Title: Puerto Rico Ports Authority Terminal Agreement.

Parties:

Puerto Rico Ports Authority
Fred Imbert, Inc.

Synopsis: The proposed agreement provides exclusive use of certain space for office, warehouse, repair shop, parking and open area at Pier 13, Old San Juan Puerto Rico. Agreement also provides preference to use open area, dockage platform, warehouse and loading platform at Pier 13, Old San Juan, Puerto Rico.

Agreement No.: 244-003934-002.

Title: Port of Palm Beach Lease Agreement.

Parties:

Port of Palm Beach District
Florida Molasses Exchange, Inc.
(Corporation)

Synopsis: The proposed agreement modifies the basic agreement to provide for a nonexclusive easement for the construction and maintenance of facilities for the collection and flow of molasses and liquid cattle feed related to the Corporation's operations at the premises.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Date: August 21, 1987.

[FR Doc. 87-19565 Filed 8-25-87; 8:45 am]

BILLING CODE 6730-01-M

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer; Meeting

The Depository Library Council to the Public Printer will hold its Fall meeting October 14-16, 1987, at the Quality Inn Hotel, New Jersey Avenue NW, between D and E Streets.

The purpose of this meeting is to discuss the Depository Library Program.

The meeting will be open to the public. Anyone who wishes to attend should notify the Conference Manager, David H. Brown, U.S. Government Printing Office, 20401 (telephone 275-2255).

General participation by members of the public, or questioning of Council members or other participants, shall be permitted with approval of the Chair.

Dated: August 14, 1987.

Joseph E. Jenifer,

Deputy Public Printer.

[FR Doc. 87-19509 Filed 8-25-87; 8:45 am]

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87N-0262 (DESI 1786);
Formerly Docket No. 77N-0240]

Pentaerythritol Tetranitrate; Hearing on the Proposals to Withdraw Approval of Certain New Drug Applications

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is granting a hearing on the proposal to withdraw approval of the new drug applications for certain single-entity coronary vasodilators containing pentaerythritol tetranitrate (PETN). The drug is used in the treatment of angina pectoris.

DATES: Notices of participation shall be filed with the Dockets Management Branch no later than September 25, 1987. Disclosure of data and information and submission of narrative statement by FDA's Center for Drugs and Biologics by October 26, 1987 and by other participants by December 24, 1987. Prehearing conference on February 2, 1988, at 10 a.m.

ADDRESSES: Written notices of participation, disclosures, and statements to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857. Submissions should be identified with the above docket number and clearly labeled "PETN Hearing." Prehearing conference in the FDA Hearing Room, Room 4A-35, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Division of Regulations Policy (HFC-220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 14, 1984 (49 FR 40213), the Director of the Center for Drugs and Biologics issued a notice of opportunity for hearing on a proposal to withdraw approval of the new drug applications for certain single-entity coronary vasodilators containing PETN

because there was a lack of substantial evidence that these products were effective for their labeled indications. In response to the notice, a hearing was requested by various manufacturers and a distributor of PETN products. These products are as follows:

1. *NDA 8-072*; Peritrate Tablets containing 10 milligrams (mg), 20 mg, and 40 mg PETN; Parke-Davis, Division of Warner-Lambert Co., 201 Tabor Rd., Morris Plains, NJ 07950

2. *NDA 11-109*; Peritrate SA (Controlled release) Tablets containing 80 mg PETN (20 mg in the immediate release layer and 60 mg in the controlled release base); Parke-Davis.

3. *NDA 12-311*; Pentritol Tempules (controlled release capsules) containing 60 mg PETN; Armour Pharmaceutical Co., 303 South Broadway, Tarrytown, NY 10591.

4. *NDA 12-748*; Duotrate-45 Plateau Capsules (controlled release) containing 45 mg PETN; Marion Laboratories, Inc., 10236 Bunker Ridge Rd., Kansas City, MO 64137.

5. *NDA 16-457*; Pentritol Tempules (controlled release capsules) containing 30 mg PETN (incorrectly listed in the October 15, 1984 notice of opportunity for hearing as containing 60 mg PETN); Armour Pharmaceutical Co.

6. *NDA 16-470*; Duotrate-30 Plateau Capsules (controlled release) containing 30 mg PETN; Marion Laboratories, Inc.

7. *NDA 16-625*; Pentaerythritol Tetranitrate Tablets containing 10 mg and 20 mg PETN; Bolar Pharmaceutical Co., Inc. 130 Lincoln St., Copiague, NY 11726.

8. *ANDA 86-193*; Pentaerythritol Tetranitrate Tablets (controlled release) containing 80 mg PETN; Bolar Pharmaceutical Co.

9. *ANDA 87-683*; Pentaerythritol Tetranitrate Capsules (controlled release) containing 80 mg PETN; Inwood Laboratories, Inc., Division of Forest Laboratories, Inc., 300 Prospect St., Inwood, NY 11896

10. Purepac Pharmaceutical Co., Division of Kalipharma, Inc., 200 Elmora Ave., Elizabeth, NJ 07207 filed a letter on its behalf as a distributor of PETN products.

Because a hearing was not requested for other PETN products, the Director withdrew approval of the pertinent new drug applications on September 5, 1985 (50 FR 36152).

The Commissioner has considered the data and information that were filed in support of the hearing requests and has concluded that a hearing should be held. Two issues will be addressed by the hearing:

1. Whether there is evidence consisting of adequate and well-

controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of PETN; and

2. Whether, on the basis of any such adequate and well controlled investigations, it could fairly and responsibly be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of drugs that PETN will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof. (21 U.S.C. 355(d); 21 CFR 314.126).

Parke-Davis submitted a petition dated November 30, 1984, requesting that the Director withdraw the October 1984 notice for further evaluation by FDA of certain data allegedly not considered by the Center in that notice. The Commissioner denies this petition. Parke-Davis can present the data at the evidentiary hearing that will be held.

The parties to the hearing will be FDA's Center for Drugs and Biologics and Parke-Davis, Armour, Marion, Inwood, Bolar, and Purepac. Any other interested person shall be permitted to participate in the hearing as a nonparty participant (see 21 CFR 12.89) provided that the person files a notice of participation pursuant to 21 FR 12.45(a). The presiding officer will be Administrative Law Judge Daniel J. Davidson.

In accordance with 21 CFR 12.85(a)(4), the Center for Drugs and Biologics (Center) would normally file with the Dockets Management Branch a narrative statement setting forth its position on the issues of the hearing and a summary of the types of evidence to be introduced in support of its position in the hearing, together with copies of data contained in the Center's files that relate to the issues raised herein, at the time this notice issues. I am under 21 CFR 10.19 modifying that requirement to the extent that the Center will be granted until October 26, 1987 to make these submissions. I have concluded that this modification of this regulation in the context of this proceeding does not prejudice any participant in the hearing, serves the end of justice, is in accordance with law, and thus is authorized by § 10.19. The modification allows FDA to advise the parties that a hearing is pending on the matter prior to the completion by the Center of the sometimes lengthy process of complying with the requirements of § 12.85. Interested persons may obtain a copy of the Center's narrative statement from

the Dockets Management Branch (address above).

Participants other than the Center for Drugs and Biologics shall disclose data and information and submit their narrative statements pursuant to 21 CFR 12.85 on or before December 24, 1987. Pursuant to 21 CFR 10.20(j)(2)(ii), confidential material submitted must be segregated and clearly marked. All claims of confidentiality must be raised at the prehearing conference or will be considered waived. Interested persons may examine the data on the drugs subject to this hearing notice (with the exception of any data identified as confidential pursuant to the provisions of 21 CFR 10.20(j)) at the Dockets Management Branch from 9 a.m. to 4 p.m., Monday through Friday.

A prehearing conference will be held in the FDA Hearing Room, Room 4A-35, 5600 Fishers Lane, Rockville, MD, on February 2, 1988. The prehearing conference may be subject to change by order of the presiding officer. Hearing participants will be notified of any such change. Others may wish to confirm the schedule for the prehearing conference by telephoning the contact person listed above shortly before the announced date. The hearing itself will also be held in the FDA Hearing Room on a date to be set at the prehearing conference. Written notices of participation shall be filed with the Dockets Management Branch no later than September 25, 1987. All participants are required to attend the prehearing conference and to be prepared to comply with the provisions of 21 CFR 12.92.

The hearing will be open to the public except for matters ruled by the Administrative Law Judge to be confidential. Any participant may appear in person, or by or with counsel, or with other qualified representatives, and may be heard on matters relevant to the issues under consideration.

Because this is a public hearing, it is subject to FDA's guideline concerning the policy and procedures for electronic media coverage of public agency administrative proceedings (21 CFR Part 10, Subpart C). These procedures are primarily intended to expedite media access to FDA's public proceedings, including formal evidentiary hearings conducted pursuant to Part 12 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the testimony of witnesses in the proceeding. Accordingly, the parties and nonparty participants to this hearing, and all other

interested persons, are directed to the guideline, as well as Federal Register notice announcing issuance of the guideline (April 13, 1984, 49 FR 14723), for a more complete explanation of the guideline's effect on this hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052 as amended (21 U.S.C. 355)) and under authority delegated to me (21 CFR 5.10), I order that a public hearing be held on the issues set out in this notice.

Dated: August 18, 1987.

John A. Norris,
Acting Commissioner of Food and Drugs.
[FR Doc. 87-19553 Filed 8-25-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

[AA-660-07-4133-02]

Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, NM; Correction

The Order of the Secretary of the Interior revising the Order covering Oil, Gas, and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico, that appeared on pages 39425 to 39427 of the Federal Register of October 28, 1986, is corrected as follows:

1. On page 39425, column 1, the phrase "Section 1. Purpose. This order" is corrected to read "Section 1. Purpose. This Order".

2. On page 39425, column 1, the phrase "Section 2. Authority. This order" is corrected to read "Section 2. Authority. This Order".

3. On page 39425, column 1, the land description appearing in the parenthetical phrase appearing immediately after the phrase "the Order of February 6, 1939" is corrected to read "E1/2 SE1/4, sec. 24 and the E1/2 E1/2, W1/2 SE1/4, S1/2 SW1/4, sec. 25, T. 20 S., R. 29 E.,".

4. On page 39425, column 1, in the last sentence of the text appearing under the symbol I, the word "within" is corrected to read "with".

5. On page 39425, column 3, in section D., c., the phrase "more ore zone, i.e., those areas (enclaves) where potash ore is known to" is corrected to read "more ore zones, i.e., those areas (enclaves) where potash ore is known to".

6. On page 39425, column 3, in the last paragraph of the text under "D. Mineable Reserves," the phrase "boundaries or the proposed mineable" is corrected to read "boundaries of the proposed mineable".

7. On page 39426, column 1, the language appearing at the end of the first partial paragraph appearing in column 1 is corrected by adding the word "and" at the end of the partial paragraph.

8. On page 39426, column 1, in the language in paragraph 2., the phrase "unitization pursuant to" is corrected to read "unitization pursuant to" and in the same paragraph the phrase "This unitization will be a prerequisite to the approval of any well which is: (1) Located" is corrected to read "Thus, unitization will be a prerequisite to the approval of any well which is: (1) located".

9. On page 39426, column 2, in the language in paragraph 3., the phrase "potash lessees shall continue" is corrected to read "potash lessees shall continue", and in the same paragraph, the phrase "the drilling or any proposed well" is corrected to read "the drilling of any proposed well".

10. On page 39426, column 2, in the language of paragraph 4., the phrase "vertical test wells for oil and gas" is corrected to read "vertical test wells for oil and gas".

11. On page 39426, column 3, the date appearing in the first line of column 3 is corrected to read "February 7, 1927".

12. On page 39426, column 3, in the text appearing under IV, the phrase "Part III of this Order by filing" is corrected to read "Part III of this Order by filing" and also the phrase "leasing and development of potash" is corrected to read "leasing and development of oil and gas".

13. On page 39426, column 3, in the description under T. 19 S., R. 29 E., the phrase "Secs. 34 and 36" is corrected to read "Secs. 35 and 36".

14. On page 39426, column 3, in the description under T. 20 S., R. 29 E., the phrase "Secs. 34 and 36 inclusive" is corrected to read "Secs. 34 to 36 inclusive".

15. On page 39426, column 3, in the description under T. 21 S., R. 29 E., the phrase "Secs. 34 and 36 inclusive" is corrected to read "Secs. 34 to 36 inclusive".

16. On page 39426, column 3, in the description under T. 19 S., R. 31 E., the phrase "Section 7, 18;" is corrected to read "Secs. 7 and 18;".

17. On page 39426, column 3, the description is corrected by adding immediately following the phrase "T. 22 S., R. 31 E.," the phrase "T. 23. S., R. 31 E.,".

18. On page 39427, column 1, in the description under T. 19 S., R. 33 E., the phrase "Secs. 21 and 36 inclusive" is

corrected to read "Secs. 21 to 36 inclusive."

19. On page 39427, column 1, in the description under T. 20 S., R. 34 E., the phrases "Secs. 3 and 10 inclusive;" and "Secs. 15 and 36, inclusive." are corrected to read "Secs 3 to 10 inclusive;" and Secs 15 to 36 inclusive".

James E. Cason,

Acting Secretary of the Interior.

August 13, 1987.

[FR Doc. 87-19554 Filed 8-25-87; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

[PRT-720930, et al.]

Receipt of Applications for Permits; Oxtan Kennels & Exotics et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-720930

Applicant: Gibbon & Gallinaceous Bird Center, Saugus, CA.

The applicant requests a permit to import two male and two female agile gibbons (*Hylobates agilis*), and one male white-cheeked gibbon (*H. concolor leucogenys*) from the Perth Zoo, South Perth, Australia, for the purpose of research and captive propagation.

PRT-718405

Applicant: Oxtan Kennels & Exotics, Salinas, CA 93907.

The applicant requests a permit to purchase in interstate commerce one captive-bred male tiger (*Panthera tigris*) from Gene Davis, Pasadena, Maryland, for educational purposes.

PRT-720885

Applicant: David James Calvin, Greeley, CO 80634.

The applicant requests a permit to import two male and two female Blyth's tragopan pheasants (*Tragopan blythii*) from Glenn Howe, Aylmer, Ontario, Canada, for captive breeding.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above

address. Please refer to the appropriate applicant and PRT number when submitting comments.

Date: August 21, 1987.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-19587 Filed 8-25-87; 8:45 am]

BILLING CODE 4310-55-M

[PRT 718896 et al.]

Issuance of Permit for Marine Mammals; Hiroo Aquarium et al.

On June 16, 1987, a notice was published in the Federal Register (Vol. 52, No. 115) that applications had been filed with the Fish and Wildlife Service by Marine Palace (Oita Ecological Aquarium) (PRT# 718896) and Hiroo Aquarium (PRT# 718972), both located in Japan, for permits to capture and export five Alaska sea otters each for the purpose of public display.

Notice is hereby given that on August 13 & 12 respectively, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 through 1407), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein.

The permits are available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 611, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: August 21, 1987.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-19588 Filed 8-25-87; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[NV-930-07-4410-08]

Availability of the Shoshone-Eureka Proposed Resource Management Plan (RMP) Amendment and Final Environmental Impact Statement (EIS), Battle Mountain, NV

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the National Environmental Policy Act of 1969, the Battle Mountain District of the Bureau of Land Management has prepared a proposed RMP amendment and final EIS for the Shoshone-Eureka Resource Area. Through reexamination of the criteria used to categorize livestock grazing allotments into management categories along with new information on condition

and trend, 14 additional allotments were categorized into the "Improve" category. The changes in management actions associated with the recategorization of allotments were significant enough to require a proposed amendment to the original RMP and an assessment of impacts through an EIS.

DATES: The proposed RMP amendment and final EIS is now available to the public. The 30 day protest period will end September 28, 1987.

ADDRESSES: Individuals wishing to obtain copies of the draft and final planning documents should contact Terry L. Plummer, District Manager, Bureau of Land Management, P.O. Box 1420, Battle Mountain, Nevada 89820, telephone (702) 635-5181.

Any protests are to be sent to the following address: Director, Bureau of Land Management, 18th and C Streets NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: Copies of the final planning documents have been mailed to individuals and organizations of the Shoshone-Eureka mailing list and are available for review at all BLM offices in Nevada and at all county and university libraries in the state.

Individuals wishing to protest should provide the following information to the Director not later than the above date:

- The name, mailing address, telephone number and interest of the person filing the protests;
- A statement of the issue or issues being protested;
- A statement of the part or parts of the amendment being protested;
- A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record; and
- A concise statement explaining why the State Director's decision is believed to be wrong.

Date: August 17, 1987.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 87-19506 Filed 8-25-87; 8:45 am]

BILLING CODE 4310-HC-M

[CO-942-06-4520-12]

Colorado; Filing of Plats of Survey

August 14, 1987.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., August 14, 1987.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the survey of the subdivision of sections 2 and 3, T. 37 N., R. 16 W., New Mexico Principal Meridian, Colorado, Group No. 717, was accepted August 4, 1987.

The plat representing the dependent resurvey of portions of the south boundary and the subdivisional lines, and the survey of the subdivision of section 34, T. 38 N., R. 16 W., New Mexico Principal Meridian, Colorado, Group No. 717, was accepted August 4, 1987.

These surveys were executed to meet certain administrative needs of the Bureau of Reclamation.

The plat representing the dependent resurvey of portions of the Ninth Standard Parallel North (south boundary, T. 37 N., R. 7 W.) and the subdivisional lines, and the metes-and-bounds survey in section 4, T. 36 N., R. 7 W., New Mexico Principal Meridian, Colorado, Group No. 843, was accepted August 13, 1987.

This survey was executed to meet certain administrative needs of this Bureau and the Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 87-19507 Filed 8-25-87; 8:45 am]

BILLING CODE 4310-JB-M

Bureau of Reclamation

Colorado River Floodway Task Force; Meeting

SUMMARY: The Colorado River Floodway Protection Act, Pub. L. 99-450, requires the Secretary of the Interior to establish a federally declared floodway along the Colorado River below Davis Dam on the Arizona/Nevada border and the southerly international border between the United States and Mexico. The Act requires that a task force be established to assist in the development of the floodway boundaries.

The Colorado River Floodway Task Force has previously met on June 30, 1987, and on July 27, 1987. A steering committee was organized and other subcommittees have been formed to address the specific tasks identified in the Act.

The third meeting of the Task Force is scheduled for September 17, 1987, at Lake Havasu City, Arizona. At this meeting the subcommittee reviewing the methodology for the development of the

100-year flood and mapping on the Colorado River will make a presentation and will provide recommendations to the Task Force. The Task Force will also identify the chairpersons of the other subcommittees, and will develop schedules and activities for the accomplishment of the remaining tasks.

An open meeting will be held as described below:

Date: September 17, 1987

Time: 8:30 a.m.

Address: Pioneer Hotel 271 Lake Havasu Avenue Lake Havasu City, Arizona 86403 (602) 855-1111

FOR FURTHER INFORMATION CONTACT:

Mr. Robert C. Brose, Bureau of Reclamation, Nevada Highway and Park Street, P.O. Box 427, Boulder City, Nevada 89005, (702) 293-8520.

Dated: August 20, 1987.

William C. Klostermeyer,

Acting Commissioner.

[FR Doc. 87-19517 Filed 8-25-87; 8:45 am]

BILLING CODE 4310-09-M

Office of Surface Mining Reclamation and Enforcement

Reopening and Extension of Public Comment Period; Abandoned Mine Land Reclamation Fee Liability for Culm Combustion Project

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

ACTION: Notice of reopening and extension of public comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) held a public meeting on August 11, 1987, in Camp Hill, Pennsylvania, to discuss whether culm should be considered coal, and therefore subject to the Abandoned Mine Land (AML) reclamation fees (52 FR 27265). In order to allow further public participation on this subject, OSMRE is now reopening and extending the comment period.

DATE: The comment period on the subject matter is reopened and extended until 5:00 p.m. Eastern time September 25, 1987.

ADDRESSES: Hand-deliver written comments to Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L Street NW., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131-L, 1951 Constitution Avenue NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Jane Robinson, Office of Surface Mining Reclamation and Enforcement, 1951

Constitution Avenue, NW., Washington, DC 20240; Telephone 202-343-2853 (Commerical or FTS).

SUPPLEMENTARY INFORMATION: OSMRE has received inquiries from companies proposing to construct culm fueled electrical power generation facilities in the Commonwealth of Pennsylvania regarding their AML fee liability for culm. The culm, to be used as fuel in the combustion units, was originally produced as a waste product from surface and subsurface anthracite mines that operated on Pennsylvania from approximately 1900 to 1956. OSMRE is advised that the facilities will utilize newly developed technology in their proposed operations that will eliminate the need to separate the combustible from the non-combustible materials contained in the culm. The companies contemplating the use of this new technology are of the opinion that such an operation will not be feasible if OSMRE imposes the AML fee on the culm.

To assist OSMRE in making its determination on whether an AML fee should be imposed on Pennsylvania culm combustion operations, a public meeting was held. This meeting provided a forum for OSMRE to obtain comments, information, and recommendations from all interested parties. Among the panelists at the meeting were a representative of the Department of Natural Resources of the Commonwealth of Pennsylvania. Since the participants expressed great interest in the topic, OSMRE has decided to reopen and extend the comment period in order to allow further public participation prior to any decision it makes on the treatment of culm for AML fee purposes. OSMRE is particularly interested in receiving comments on the following:

The impact the payment of AML fees will have on the economic viability of a culm combustion project.

Suggestions for an equitable measurement of the tonnage upon which the fee is calculated, assuming the actual percentage of coal by bulk is low.

The economic consequence of environmental conditions imposed by Federal or State regulatory authorities on the use of culm as a fuel.

A rationale and/or legal basis for making a determination that culm is or is not coal.

Any impact that an existing or proposed Federal or State legislation, or regulation, will have on the economic viability of these projects.

OSMRE will rely, in part, on information obtained at the meeting and through written public comments to

make its decision regarding AML fee liability of culm operations.

Jed. D. Christensen,

Director, Office of Surface Mining
Reclamation and Enforcement.

August 18, 1987.

[FR Doc. 87-19495 Filed 8-25-87; 8:45 am]

BILLING CODE 4310-05-m

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Statement of Organization, Functions, and Procedures, (Public Notice No. 1, Revised); Information Guidance

In compliance with the Freedom of Information Act (5 U.S.C. 552), this notice provides information and guidance to the public regarding: The basic authorities and programs of A.I.D.; the organization and functions of the Agency's central and field organizations; the Agency's methods of operation; statements of policy, rules, and procedures; and the process by which the public may obtain information, make submittals or requests, or obtain decisions.

This notice is a revision of "A.I.D.'s Public Notice No. 1," published in the *Federal Register* on October 4, 1985. It reflects the organization, basic functions, and methods of operations of A.I.D. as of June 30, 1987. Subsequent revisions of this statement will also be published in the *Federal Register*, as appropriate.

I. Creation and Authority of the Agency

The Agency for International Development (A.I.D.) carries out economic assistance programs designed to help the people of developing countries develop their human and economic resources, increase their productive capacities, and improve the quality of human life as well as promote economic and political stability in friendly countries.

The Foreign Assistance Act of 1961 (75 Stat. 424; 22 U.S.C. 2151, *et seq.*), as amended, authorizes the President to exercise functions under that act through such agency or officer of the U.S. Government as he/she may direct. Executive Order 12163 of September 29, 1979, delegates to the Director of the International Development Cooperation Agency (IDCA) the authorities set forth in the Foreign Assistance Act of 1961, as amended, and in certain other acts, with certain limited exceptions. The Executive Order also directs that the Director of IDCA continue within that Agency A.I.D.

IDCA Delegation of Authority No. 1 of October 1, 1979 (44 FR 57521), continued A.I.D. in existence as an agency within IDCA and delegates to the Administrator of A.I.D. the functions conferred upon the Director of IDCA by Executive Order 12163 and certain related Executive Orders, except as otherwise reserved or delegated.

A.I.D. functions under an Administrator, who also currently serves as the Acting Director of IDCA. The Administrator directs U.S. foreign and economic assistance operations in more than 60 countries.

II. Programs of the Agency

The Foreign Assistance Act of 1961, as amended (75 Stat. 424; 22 U.S.C. 2151 note), authorizes A.I.D. to administer—normally on a bilateral basis—two kinds of foreign assistance: Development assistance and economic support funds.

In addition, A.I.D., in cooperation with the Department of Agriculture and State, also carries out Pub. L. 480, the Agriculture Trade Development and Assistance Act of 1954, as amended (68 Stat. 454; 7 U.S.C. 1691 *et seq.*), which includes the sale of agricultural commodities on concessional terms (Title I), the donation of agricultural commodities (Title II), and the provision of food under the Food for Development Program (Title III).

A.I.D. also conducts humanitarian relief activities in support of those who suffer from natural calamities such as earthquake, famine, flood, and drought. Programs are conducted, often in conjunction with those of other nations and private, charitable organizations, to quickly alleviate the effects of disaster and reduce human suffering.

A.I.D. emphasizes four major thrusts to achieve successful economic development: (1) Use of market forces to stimulate growth of market economies in developing countries and to interest U.S. companies' investment in those countries; (2) policy dialogue to encourage those countries that receive U.S. assistance to adopt rational economic policies that foster economic growth; (3) institution building that supports establishment and growth of institutions such as schools, colleges, training organizations, and supportive government ministries necessary for economic growth in developing countries; and (4) practical technology transfer to enable countries to produce their own resources.

A.I.D.'s main objective is to help developing countries help themselves.

Specifically, A.I.D. administers programs under the Foreign Assistance Act within the following major categories of assistance:

A. Development Assistance

A.I.D. focuses its development assistance programs on critical problem areas in those functional sectors which affect the majority of the people in the developing countries. The areas of concentration are:

1. Agriculture, Rural Development and Nutrition

To increase the incomes of the poor majority and to expand the availability and consumption of food—while maintaining and enhancing the natural resource base.

2. Health

To lower infant and child mortality rates through child survival programs and improve community and family health in general through primary health care programs; reduce the incidence of serious communicable diseases; and assist developing countries to effectively manage the allocation of financial and human resources so that preventative and curative health services are sustained and more equitably distributed.

3. Population Planning

To extend voluntary family planning services to the village level through programs that provide or promote safe, effective, affordable, acceptable family planning services.

4. Education and Human Resource Development

To expand access to basic education, particularly for the rural poor, through programs which improve the education system's management, the quality of primary education and the cost-effectiveness of resources used; to encourage the use of mass media and communication technology and the development of informal education and training approaches for rural families and workers in agriculture; nutrition; health and family planning; and to provide advanced training needed for technicians, scientists and managers at all levels.

5. Energy, Private and Voluntary Organizations, and Selected Development Activities

To support selected development activities that deal with a wide range of development concerns which do not fall within the above functional sectors; e.g., projects directed toward assisting developing countries with their national energy and natural resource problems and projects which provide for the transfer and adaptation of appropriate technology and lessen the problems of

rapid urbanization, including employment and income problems. These activities place high priority on greater involvement of the private sector of both the United States and less-developed countries, in development, including greater reliance on private and voluntary organizations.

6. Private Enterprise

Private enterprise is integrated into each of the functional program areas to assist, both directly and in collaboration with the U.S. private sector, those developing countries that want to support a private sector, market-oriented, developmental strategy. U.S. and developing country private sector resources can be an important supplement and complement to existing bilateral and multilateral aid programs; and private investment can make a vital contribution to development through job creation, increased productivity, transferred technology and management know-how and the generation of additional and diversified products to meet internal demand and expand export capacity.

B. Economic Support Fund

The primary objective of The Economic Support Fund (ESF) is to support U.S. economic, political and security interests and to advance U.S. foreign policy objectives. ESF provides resources that stem the spread of economic and political disruption and to help friends and allies in dealing with threats to their security and independence.

ESF is flexible economic assistance provided on a grant or loan basis, and may be used, for example, to sustain economic activity and restore equilibrium, to address basic development needs, or to improve infrastructure. In administering ESF, consideration is given to policy guidance which underlies the provision of development assistance. This would include, for example, assisting developing countries in building and maintaining social and economic institutions necessary for self-sustaining and equitable growth, providing opportunities to improve the quality of life of their people, and meeting basic human needs.

C. Specific Programs

1. Sahel Development

A.I.D. participates in a long-term program for the development of the Sahelian region of West Africa. The objectives of the Sahel Development Program are to promote regional food self-reliance and self-sustaining

economic growth. The program is coordinated, planned, and designed by the Club du Sahel, comprised of nine Sahel states: Mali, Chad, Niger, Burkina Faso, Senegal, Mauritania, Cape Verde, the Gambia, and Guinea-Bissau; the United States; and over 20 participating governments and international organizations.

2. American School and Hospitals Abroad

The American Schools and Hospitals Abroad program provides grants to private U.S. nonprofit organizations sponsoring American schools and hospitals abroad. The purpose is to demonstrate American ideas and practices in education and medicine.

3. International Disaster Assistance

The Office of U.S. Foreign Disaster Assistance administers A.I.D.'s overseas disaster assistance program. The Office draws upon other U.S. Government agencies, voluntary and international organizations and the U.S. private sector to meet the demands of disaster relief, rehabilitation, preparedness, early warning and mitigation in countries stricken or threatened by natural or man-made disasters, including earthquakes, floods, cyclones, volcanic eruption, accidents and civil strife. OFDA provides technical assistance and training for the development of host government disaster assistance programs, technology transfer for improved prediction and warning systems and material and personnel resources for emergency relief and rehabilitation. The A.I.D. Administrator serves as the President's Special Coordinator for International Disaster Assistance.

4. Housing Guaranty Program

A.I.D.'s Housing Guaranty Program facilitates private financing for shelter for lower income families in developing countries by guaranteeing repayment to U.S. lenders for projects requested by these countries. A.I.D. seeks to finance innovative programs such as squatter upgrading through the provisions of sewerage, potable water, electricity, and credit for home improvements; sites and services by the provision of a basic urbanized lot, with the family constructing its own dwelling unit; and low-cost, expandable core housing units.

These projects are designed to promote affordable homeownership for lower-income households, increase the participation of the private sector in the financing and development of low-cost shelter, support improved housing finance policies, and strengthen local

delivery of essential urban services to poorer neighborhoods.

The Office of Housing and Urban Programs also supports a program of research and technical assistance in urban development. Key areas of emphasis are the development and application of new tools for analyzing urban issues and urban investment strategies and assistance in strengthening urban investment strategies and assistance in strengthening urban and financial management policies and practices.

5. Food for Peace

In cooperation with the Department of Agriculture, A.I.D. participates in the sale of agricultural commodities on concessional terms under Title I of Public Law 480 to encourage economic development, assist in combating hunger and malnutrition, and for other purposes. Under Title II, A.I.D. administers the donation of agricultural commodities to meet famine or other urgent or extraordinary relief requirements, to combat malnutrition, to promote economic and community development, and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. A.I.D. also administers Title III, which provides that a portion of funds accruing from Title I sales be used for Food for Development Programs to improve the production, protection, and utilization of food to increase the well-being of the poor in the rural sector of the recipient country, and that funds so used are applied against that government's Title I repayment obligation (Pub. L. 480, Agricultural Trade Development and Assistance Act of 1954, as amended). A.I.D. supports the use of food aid in ways that promote rather than hinder the growth of food production and associated policy and program initiatives in the host government.

Additionally, A.I.D. administers on behalf of USDA the Sector 416 surplus agricultural commodity program. These commodities can be utilized on a grant basis for time-limited humanitarian and developmental purposes.

6. Science and Technology

In recognition of the higher priority that developing countries are placing on science and technology, A.I.D. is focusing on more innovative and collaborative approaches to the problems and processes of development research and technology transfer. This program includes both support of the research to explore the potential uses of emerging technologies for development,

and innovative approaches to strengthen the capacity of less developed countries to take advantage of these new technologies.

D. Special Provisions

1. Capital Technology

A.I.D. supports projects with the specific objective of broadening the range of technologies in use. This is accomplished by increasing local research and the flow of information on appropriate technologies; promoting local development, adaptation, and utilization of technologies appropriate to developing countries; and providing assistance which encourages the formulation of policies that broaden the range of technological options.

2. Women in development

In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process of the national economies of such countries, Congress requires that U.S. bilateral aid be administered so as to give particular attention to the programs, projects, and activities which tend to integrate women into the national economies of developing countries, thus improving their status and assisting the total development effort. A.I.D. implements this congressional mandate with leadership by the Office of Women in Development.

III. Organization, Functions, and Methods of Operations

A. General

A.I.D. consists of a central headquarters staff in the Washington metropolitan area (A.I.D./W) and a number of overseas missions and offices. The structure of the Agency headquarters includes: The Office of the Administrator which is supported by the Office of the Executive Secretary; a Board for International Food and Agricultural Development Support Staff; eight staff offices; six functional bureaus; and three geographic bureaus.

B. The Office of the Administrator (A/A.I.D.)

The Administrator plans, directs, and coordinates the operations of the Agency and is responsible, subject to the approval of the President, for the formulation and execution of U.S. foreign economic assistance policies and programs. The Administrator supervises and directs the activities of all personnel of the Agency in the United States and overseas. In addition, the Administrator of A.I.D. serves as the President's

Special Coordinator for International Disaster Assistance.

The Office of the Executive Secretary (ES) facilitates and expedites the decision-making process of A.I.D. It serves as a channel of communication and coordination between the Office of the Administrator and the Agency's Senior Staff.

C. Staff Offices

The following staff offices report to the Office of the Administrator:

1. The Office of the Inspector General (IG) is the Agency's focal point for assuring the integrity of A.I.D.'s operations. It is the central authority concerned with the quality, coverage, and coordination of the audit, inspection and investigation services of the Agency. In directing, monitoring, and reviewing these activities, the Inspector General emphasizes both the protective and constructive aspects of these services as a tool of management within a comprehensive Agency effort to attain improved management effectiveness. The Inspector General has full access to all phases of the Agency's operations in order to carry out a comprehensive plan of selected audits, investigations and inspections, surveys and reviews to provide reasonable protection and constructive advice for Agency management. The IG serves as Agency liaison with the Department of State to assure that adequate security services are performed for A.I.D. by that Department.

2. The Office of Legislative Affairs (LEG) has responsibility for the Agency's relations with the Congress, and is the central point of contact between the Agency and the Congress, including Congressional members and committees. The Office coordinates the preparation of A.I.D.'s legislative program, including the preparation and submission of information relating to legislative authority and appropriations requests. The Office is also responsible for advising the Administrator and the Agency on the status of pending legislation of interest and on the history of pending legislation, including the concerns and views of members of the Congress on pending legislation and other matters of interest to A.I.D.

3. The Office of the General Counsel (GC) provides all legal advice, counsel, and services to the Agency and its officials both in the United States and abroad, and ensures that A.I.D. Programs are administered in accordance with legislative authorities. The Office maintains legal staffs both at headquarters and at regional or country organizations overseas.

4. The Office of U.S. Foreign Disaster Assistance (OFDA) plans and implements overseas disaster preparedness, relief, and rehabilitation programs. It formulates U.S. foreign disaster assistance policy and coordinates disaster assistance activities of the Agency, the Department of State, and other elements of the U.S. Government. The Office maintains contingency planning and preparedness for foreign disasters, mobilizes U.S. Government resources with those of voluntary agencies, international organizations and other donors. It promotes and supports, in conjunction with U.S. Missions abroad, preparedness programs in disaster prone countries. The Office maintains disaster relief stockpiles overseas and directs a disaster coordination center in Washington, DC.

5. The Office of Equal Opportunity Programs (EOP) is the central Agency office responsible for formulating the policy and administering, monitoring, and evaluating the implementation of all government laws, policies, regulations and executive orders relating to the provision of equal opportunity in employment and personnel administration for all employees and applicants for employment with A.I.D. and activities financed by it without regard to race, color, religion, national origin, physical or mental handicap, sex, or age.

6. The Office of the Science Advisor (SCI) serves as the focal point for coordinating the more innovative and collaborative approaches to the problems and processes of development research, technology transfer and related capacity-building programs and activities. The Office has a major responsibility for identifying scientific and technological needs and opportunities in developing countries and resources to meet those needs from U.S. and foreign public and private sources; for establishing effective mechanisms for involving foreign public and private sector sources in working with developing countries to realize these opportunities; for enhancing relationships of IDCA and A.I.D. with other U.S. public and private sector resources; and for ensuring effective linkage between U.S. scientific and technological capacities and the development programs in which the U.S. Government participates.

7. The Office of Small and Disadvantaged Business Utilization (SDB) administers the Agency's small and disadvantaged business utilization programs in accordance with governing legislation, including the Gray

Amendment, the Small Business Act, as amended (Pub. L. 95-507); section 123 of the International Development Cooperation Act of 1979 and section 602 of the Foreign Assistance Act of 1961, as amended.

8. The BIFAD Support Staff (BIFAD/S), in compliance with A.I.D.'s statutory obligation, provides staff support to the Board for International Food and Agricultural Development (BIFAD) and its subcommittee as authorized by section 298 of Title XII of the Foreign Assistance Act, as amended.

9. The Office of Private Sector Coordination (PSC) has responsibility for assisting, coordinating, and advising on the involvement of the U.S. business community with A.I.D. to achieve Agency objectives. The Office undertakes activities or sponsors initiatives to stimulate cooperative projects between A.I.D. and the U.S. business community which are within the Agency's mandate.

PSC has responsibility for coordinating A.I.D.'s efforts to promote greater U.S. private sector involvement in developing countries with U.S. business promotion efforts of other U.S. agencies, including the Overseas Private Investment Corporation (OPIC), U.S. Trade and Development Program (TDP), the Department of Agriculture, the Department of Commerce, the Department of Treasury, and financing programs of the multilateral development banks, including the International Bank for Reconstruction and Development (IBRD), International Finance Corporation (IFC), Inter-American Development Bank (IDB), Asian Development Bank (ADB), and African Development Bank (AFDB).

D. Functional Bureaus

1. The Bureau for Program and Policy Coordination (PPC) is responsible for the Agency's overall program policy formulation, planning, coordination, resource allocation, evaluation and development information utilization activities, and the program management information utilization activities, and the program management information systems which support them. The Bureau develops economic assistance policies, provides guidance on long-range program planning, economic analysis, sector assistance strategies, and project analysis and design. It coordinates the formulation and revision of the Agency's program and budget, and participates in the presentation of the Agency's program to the Congress. The Bureau reviews and monitors all country program strategies and project proposals and selectively reviews project papers from other bureaus and

offices to ensure compliance with Agency policy guidance. It provides in-depth analyses of development problems and related issues and formulates the Agency's position on major U.S. development policies affecting the Agency's assistance programs in the developing countries.

The Bureau assures implementation of Title IX of the Foreign Assistance Act (FAA), which emphasizes the encouragement of democratic institutions and seeks to develop an Agency policy for the furtherance of human rights in the developing countries. In accordance with sections 116 and 502B, implements sections 113 and 305 of the FAA relating to women in development. The Bureau provides leadership in the development of Agency policies and procedures for the integrated use of capital, technical, Pub. L. 480, and other assistance and for evaluation of progress toward program goals; incorporates these policies and procedures into Agency directives; reviews the policy aspects of all types of Agency projects to assure consistency with Agency objectives; develops and coordinates Agency environmental policies; and serves as Secretariat for the Bilateral Assistance Subcommittee (BAS) of the Development Coordination Committee (DCC).

The Bureau carries out significant evaluations of Agency-supported projects which can introduce improved ideas and valuable experience into the Agency's program at key points. The Bureau exercises systems management responsibilities for the policy, planning, and program management systems, both automated and nonautomated assigned to the Bureau; and provides central Agency statistical services.

The Bureau is also responsible for Agency policy and program coordination with other bilateral assistance donors, United Nations development organizations, and Multilateral Development Banks. In close collaboration with State, Treasury and other interested USG agencies, the Bureau reviews programs, budgets and staffing of the international development organizations, makes recommendations on the USG position regarding these matters, and provides guidance to the U.S. representatives to these organizations. Lastly, the Bureau is responsible for carrying out the USG lead agency responsibility for coordination and preparation of the U.S. position brought before the Development Assistance Committee, including the calculation of official development assistance and other measures of development cooperation.

2. The Bureau for Science and Technology (S&T) has primary responsibility for enhancing the Agency's capabilities to use science and technology to further economic and social progress in developing countries. To accomplish this, the Bureau provides professional leadership and technical support to Agency activities in the sectors of agriculture, nutrition, forestry, environment and natural resources, energy, rural and urban development, development administration, employment generation, education, health and family planning. It also administers the Agency's International Training program. Within each of the above sectors, the Bureau:

a. Serves as the Agency's primary liaison with the scientific and technical communities of the United States and the developing and more developed countries.

b. Serves as the Agency's focal point for the development of those sectoral strategies which require significant science and technology inputs. The Bureau develops appropriate methodology to ensure that these strategies are responsive to the needs of developing countries.

c. Identifies, in collaboration with the geographic bureaus, field service needs which can be met more effectively and efficiently from a central source and arranges for these needs to be met.

d. Mobilizes resources to provide assistance needed and requested by the field offices and Less Developed Countries (LDCs), building upon the Bureau's liaison with U.S. universities, government agencies and professional organizations.

e. Supplies the scientific and technical dimensions to the Agency's overall development assistance policy and to those sector assistance policies and strategies which govern the Agency.

The Bureau administers the Agency's central research and development program and coordinates centrally funded, regional and country research and development activities. The Bureau ensures that new knowledge and methods are disseminated within the Agency and are utilized in the Agency's field projects.

The Bureau serves as the Agency's focal point for technical coordination with the United Nations (U.N.), specialized agencies, and other international organizations. The Bureau also coordinates the Agency's operational relationships with: (a) The Board for International Food and Agricultural Development (BIFAD) and its subcommittee in the management and implementation of programs/

activities authorized under section 298 of Title XII of the Foreign Assistance Act, as amended, and (b) the U.S. university community generally.

3. The Bureau for Food for Peace and Voluntary Assistance (FVA) has central Agency responsibility for encouraging and strengthening the effective participation of nongovernmental organizations in support of A.I.D.'s developmental and humanitarian objectives; performs designated Agency responsibilities for the Food for Peace Program; and administers the American Schools and Hospitals Abroad Program.

In the area of private and voluntary cooperation, the Bureau creates and explores approaches to enlarge the role of volunteerism in the development process; maintain liaison with the American Council on Foreign Aid, the Advisory Committee on Overseas Cooperative Development and the U.S. cooperatives engaged in overseas cooperative development, and with the community of voluntary agencies generally; and provides staff support to the Advisory Committee on Voluntary Foreign Aid.

4. The Bureau for Management (M) provides centralized services in the areas of financial management, personnel management, information resources management, management operations, and contract and commodity management. It establishes and monitors Agency policies, regulations, and procedures in all of these areas.

The Bureau provides advice and assistance to Agency management on the financial implications of legislation, plans, programs, policies, procedures, operating activities, and audit and evaluation findings. It administers and coordinates such financial management activities as accounting, operating expense and workforce budgets, internal financial management control, advice and assistance to overseas missions regarding financial policies, practices and procedures, and preparation and interpretation of financial and related statistical reports. The Bureau also administers the Agency's workforce resources management program.

The Bureau has central responsibility for personnel administration. It develops policies, standards, and guidelines for operation of overseas and domestic personnel systems; operates centralized personnel recruitment, assignment, evaluation, and employee training programs; and conducts a full range of personnel operations for the Agency. Additionally, the Bureau is responsible for the administration of the Agency's labor relations program (Executive Orders 11491 and 11636).

The Bureau assists Agency management in the development, implementation, and evaluation of management policies and practices; provides or arranges for management consulting services to the headquarters and overseas organizations; and oversees administration of the programs for organization and functional alignment, directives, committee management (Pub. L. 92-463), management improvement, and systems coordination.

The Bureau provides leadership and coordination to the development and administration of the Agency's automated data information systems; provides leadership and guidance on all phases of the use of automatic data processing technology; reviews, recommends, and monitors the Agency-wide use of management consulting firms, contracts, or Participating Agency Service Agreements (PASAs) for automated data information systems; and provides leadership and policy guidance to the Agency's data management systems.

The Bureau develops policies, standards, and guidelines for, and oversees the development, operation, and management of worldwide administrative and logistical support systems; counsels and assists senior Agency personnel on all phases of administrative and logistical support services; acts as the Agency coordinator for overseas combined administrative support services for all aspects of foreign affairs administrative support (FAAS) and joint nonappropriated fund activities; and provides a wide range of administrative and logistical services for A.I.D.

The Bureau directs the development and maintenance of policies, procedures, standards, and regulations governing direct contracting and A.I.D.-financed borrower/grantee contracting; directs centralized contracting services; encourages the participation of U.S. small business in services, contracting, and export supply activities of the Agency; and develops and maintains the Agency's procurement regulations.

The Bureau provides leadership and coordination to the development and administration of the Agency's policies and procedures for commodity management; serves as the principal advisor on the commodity management aspects of the economic assistance programs; administers commodity import programs and provides support for the implementation of the commodity and transportation elements of other programs financed by the Agency; implements requirements for commodity marking and labeling; and provides

support for the transportation element of all Agency programs and for programs financed by Title II, Pub. L. 480, and the world food programs.

5. The Bureau for Private Enterprise (PRE) has responsibility for developing a closer and more effective partnership between the Agency and the U.S. Private sector and for facilitating the participation of the U.S. Private sector not only in A.I.D.-financed transactions, but in privately financed projects and activities which can accelerate the development process overseas.

The Bureau also administers the Agency's Housing Guaranty Program and serves as Agency liaison with IDCA's Trade and Development Program (TDP) and Overseas Private Investment Cooperation (OPIC).

6. The Bureau for External Affairs (XA) has broad responsibility for the Agency's diverse external programs for communicating with the American public, private U.S. communities, other donor nations, and the developing economies concerning the purpose and role of the U.S. economic assistance program and its place in international efforts to foster stability and economic growth and development.

E. Geographic Bureaus

There are three Geographic Bureaus: Africa, Latin America and the Caribbean, and Asia and Near East.

These Bureaus are the principal A.I.D. line offices with responsibility for the planning, formulation, and management, of U.S. economic development and/or supporting assistance programs in their respective areas overseas. Their programs are administered within delegated authorities and in accordance with policies and standards established by the Administrator.

Each Geographic Bureau is headed by an Assistant Administrator who:

1. Directs and supervises the activities of the Bureau and its overseas missions and offices.

2. Directs the formulation of U.S. economic assistance programs; approves programs and projects within the limits of authorities delegated from the Administrator; and authorizes the execution of economic assistance agreements with Bureau countries and regional organizations.

3. Exercises policy control within the region over the housing guaranty programs which are administered by the Office of Housing and Urban Programs within the Bureau for Private Enterprise.

4. Submits, through the Bureau for Program and Policy Coordination for the Administrator's approval, an annual budget of proposed Bureau activities

and assists in presenting the Bureau's program and budget to the Congress.

5. Approves and directs the allocation of available resources among bureau offices and overseas missions.

6. Assures necessary liaison with other Agency offices, the Department of State, other U.S. bilateral, and multilateral agencies and officials of recipient countries; and represents the agency at country consortia or consultative group meetings.

7. Oversees the implementation of Bureau programs and projects; monitors performance under loan and grant agreements contracts, and other operating agreements; and takes or recommends any required remedial action.

8. Represents the Agency before the press and the public, as required.

F. Overseas Missions and Offices

1. A.I.D.'s country organizations are located in countries where the Agency is carrying out bilateral economic assistance programs. Such organizations report to the Geographic Bureau, and include the following:

a. *Missions* are currently located in 43 countries for which the the Agency's program is major, continuing, and usually involves multiple types of aid in several sectors. Each mission is headed by a Mission Director who has been delegated program planning, implementation, and representation authorities.

b. Offices are currently located in 25 countries for which the Agency's program is moderate, declining, or has limited objectives. Each office is usually headed by an Agency Representative who has been delegated program planning, implementation, and representation authorities.

c. Sections of Embassy are currently located in four countries for which the Agency program is small or is being phased out. The Agency program planning and implementation authorities are delegated to the chief U.S. diplomatic representative in the country.

2. Offices for Multicountry Programs (seven offices) administer the Agency's overseas program activities which involve more than one country. These offices may also perform "country organization" responsibilities for assigned countries and report directly to the Geographic Bureaus.

3. Offices for Multicountry Services (three offices) provide services to other overseas organizations, primarily the Agency's country organizations and Multicountry Program Offices and report to the Geographic Bureaus.

4. Development Assistance Coordination and Representation offices

(four offices) maintain liaison with various international organizations and represent U.S. and the Agency's interest in development assistance matters. Such offices may be only partially staffed by Agency personnel and may be headed by employees of other U.S. Government agencies.

5. Audit and Investigations/ Inspections Offices (six offices) are maintained by the Office of the Inspector General at overseas locations to carry out a comprehensive program of selected audits, investigations, inspections, surveys, reviews, and security services for the Agency.

IV. Statements of General Policy, Rules, and Procedures

The Statements of A.I.D. policy and the nature and requirements of formal and informal procedures, which are currently available to the public, are contained in published regulations and other publications of the Agency as listed below. To the extent applicable, these also contain descriptions of forms available or specify the places at which forms may be obtained, and give instructions as to the scope and content of papers, reports, or examinations involved in the transaction of business with A.I.D.

A. Code of Federal Regulations

1. A.I.D.'s general regulations are codified in Chapter II of Title 22 of the Code of Federal Regulations.

2. The procurement regulations for A.I.D. are codified in Chapter 7 of Title 48 (A.I.D.A.R) and Chapter 7 of Title 41 (A.I.D. FPR) of the Code of Federal Regulations.

B. A.I.D. Handbooks

There are 33 A.I.D. Handbooks containing Agency policy, regulations, procedures and guidance on all aspects of the Agency's operation.

C. In addition, the following A.I.D. publications contain information for those transacting business with A.I.D.:

1. A.I.D.'s Country Contracting Procedures, including:

a. A.I.D.'s Handbook 11—Country Contracting (formerly Capital Projects Guidelines).

b. Environmental Assessments Guidelines Manual.

c. Information Packet for Architect-Engineer Firms.

2. A.I.D.—Financed Export Opportunities.

3. A.I.D.'s Procurement Information Bulletins.

4. A.I.D.'s Small Business Memos.

5. A.I.D.'s Importer Lists.

Copies of the above listed Agency regulations and other publications are

available for public inspection and copying through the Bureau for External Affairs's Office of Public Inquiries, A.I.D., Washington, DC 20523. In addition, publications listed under No. 2 through No. 5 above are available from the Office of Small and Disadvantaged Business Utilization, A.I.D., Washington, DC 20523, and at Department of Commerce field offices located in principal cities of the United States. The Agency's procurement regulations are also for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

V. Information, Submittals, and Requests for Decisions

A. Information

A.I.D. Regulations Nos. 12, 14, and 15 (22 CFR Parts 212, 214, and 215, respectively) specify the Agency's policy and procedures for public access to Agency records.

B. Submittals, Requests, or Decisions

Members of the public doing business, or wishing to do business, with A.I.D. may make their submittals or requests, or obtain decisions at the cognizant bureau of office described in section III above, in accordance with provisions of A.I.D. regulation or other publication which govern the action or process.

In case of uncertainty by a member of the public as to the appropriate bureau of office, or as to the methods of applying for or obtaining A.I.D. action, application should be made to the Director, Office of Public Inquiries, Bureau for External Affairs, A.I.D., Room 4889, 21st Street and Virginia Avenue, NW., Washington, DC 20523.

C. Effective Date

This notice shall be effective June 30, 1987.

Date: August 18, 1987.

R.T. Rollis, Jr.,

Assistant to the Administrator for Management.

[FR Doc. 87-19513 Filed 8-25-87; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[TA-503(a)-15 and 332-249]

Generalized System of Preference; List of Articles Which May Be Designated or Modified As Eligible Articles; Investigation and Scheduled Hearing

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: Following receipt on August 10, 1987, of a request from the U.S. Trade Representative made in part at the direction of the President, the Commission instituted investigation No. TA-503(a)-15 and 332-249 under sections 503(a) and 131(b) of the Trade Act of 1974 (19 U.S.C. 2463(a) and 2151(b)) and section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g))—

(1) Pursuant to sections 503(a) and 131(a) of Trade Act, and the authority of the President delegated to the U.S. Trade Representative by sections 4(c) and 8 (c) and (d) of Executive Order 11846, as amended, to advise the President, with respect to each article listed in Part A of the attached Annexes, as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the elimination of U.S. import duties under the U.S. Generalized System of Preferences (GSP). In providing its advice, the USTR requested the Commission to assume that benefits of the GSP would not apply to imports that would be excluded from receiving such benefits by virtue of the "competitive need" limitations specified in section 504(c) of the Act.

(2) Pursuant to section 332(g) of the Tariff Act and at the direction of the President—

(A) To advise the President, with respect to each article listed in Parts B and C of the attached Annexes, as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers (a) of the removal of articles in Part B from eligibility for duty-free treatment under the GSP, (b) of the removal of the GSP duty-free status from articles in Part C of the list which are imported from the respective countries specified which currently receive GSP duty-free treatment, and (c) the redesignation for GSP duty-free treatment for articles in Part C of the list which are imported from a specified country which does not currently receive GSP duty-free treatment for the article;

(B) In accordance with section 504(c)(3)(A)(i) of the Trade Act, to advise the President on whether any

industry in the United States is likely to be adversely affected by waiving the competitive need limits for countries specified with respect to the articles listed in Part D of the attached Annexes; and

(C) To advise the President, with respect to whether products like or directly competitive with those described in Part A of the attached Annexes were being produced in the United States on January 3, 1985, for purposes of section 504(d) of the Trade Act.

In addition, with respect to two cases involving molybdenum ore and metal-bearing materials in chief value of molybdenum (TSUS items 601.33 and 603.40; HS items 2613.10.00 and 2620.90.10), the USTR requested that the Commission consider these products separately from its normal investigation and provide advice on these two products not later than October 1, 1987. In view of the compressed time on these products, public hearings will not be held on these products.

EFFECTIVE DATE: August 20, 1987.

FOR FURTHER INFORMATION CONTACT:

- (1) Agricultural products, Mr. Fred Warren (202-724-0090)
- (2) Textiles and apparel, Mr. Lee Cook (202-523-0348)
- (3) Chemical products, Mr. Larry Johnson (202-523-0127)
- (4) Minerals and metals, Mr. Jim Brandon (202-523-5437)
- (5) Machinery and equipment, Mr. John Cutchin (202-523-0231)
- (6) General manufactures, Mr. Ruben Moller (202-724-1732)

All of the above are in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart of the Commission's Office of the General Counsel at 202-523-0487.

SUPPLEMENTARY INFORMATION:

Background

The USTR announced the items which have been sent to the Commission for probable effects advice in the *Federal Register* of August 4, 1987 (52 FR 28896).

Public Hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, DC 20436, beginning at 9:30 a.m. on October 7, 1987, and continuing as required on October 8 and 9. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file requests to appear and should file prehearing briefs (original and 14 copies) with the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, DC 20436, not later than noon, September 24, 1987. Post-hearing briefs are required by October 16, 1987.

Written Submissions

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on October 2, 1987.¹ Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirement of §201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submission's, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724-0002.

By order of the Commission.
Kenneth R. Mason,
Secretary.

Issued: August 21, 1987.

¹ For the above mentioned molybdenum ore and materials which are being considered on an expedited basis, written submissions are required by September 8, 1987.

ANNEX I (TSUS ITEM NUMBERS) ¹**A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences.**

112.01	169.13	370.8405	411.08(pt.) ²	606.42
131.27	169.1415	370.8450	455.04	737.2415
141.15	206.67	372.5005	533.79	755.15
141.83	309.20	372.5505	534.97 ^{2 3}	760.0520
161.08	309.21	389.40(pt.)	606.22	

¹ See USTR FEDERAL REGISTER notice to August 4, 1987 (52 FR 28896) for article descriptions.² Currently eligible for GSP under the TSUS; request is for GSP eligibility under the HS.³ Section 504(d) waiver requested.**B. Petitions to remove products from the list of eligible articles for the Generalized System of Preferences.**

450.2015	740.50
601.33	740.60
603.40	740.75
610.74	740.80
740.41	745.6740

C. Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences.

408.72 (Korea)
 423.0050 (Brazil)
 618.15 (Argentina, Brazil, Mexico, Taiwan, Venezuela, ⁴ Yugoslavia)
 618.20 (Argentina, Brazil, Venezuela)

642.2010 (Korea)
 652.80 (Mexico, Korea)
 682.4130 (Taiwan, Korea)
 682.5010 (Taiwan, Korea)
 682.5030 (Taiwan, Korea)
 685.28 (Korea, Hong Kong, Taiwan)
 688.20 (Brazil, Korea, Taiwan, Venezuela)
 735.09 (Taiwan, ⁴ Korea)
 735.10 (Taiwan, ⁴ Korea)
 735.11 (Taiwan, Korea)
 735.12 (Taiwan, ⁴ Korea)
 745.32 (Taiwan)
 772.06 (Korea, Mexico, Hong Kong)
 772.09 (Korea, Mexico, Hong Kong)

547.3720 (Taiwan)
 657.40(pt.) (Taiwan)
 685.25 (Korea)
 692.3262 (Mexico)
 692.3264 (Mexico)
 735.09 (Mexico)
 735.10 (Mexico)
 735.11 (Mexico)
 735.12 (Mexico)
 737.07 (Mexico)
 737.14 (Mexico)
 737.16 (Mexico)
 737.80 (Mexico)
 737.93 (Mexico)
 737.96 (Mexico)
 737.98 (Mexico)
 740.14 (Thailand)

D. Articles being considered for waiver of competitive-need limit for a product on the list of eligible products.**ANNEX II (HS ITEM NUMBERS) ¹****A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences.**

1104.12.00	2005.80.0	3920.20.00	6307.90.80(pt.)	9608.10.00
1302.20.00	2208.40.00.30	4421.90.40	7013.10.00	
1604.16.00	2208.40.00.80	6117.10.30(pt.)	7202.49.50	
2001.90.20	2934.90.25	6213.10.00	7202.50.00	
2001.90.30	3604.10.00	6214.10.00	9502.10.30.60	

¹ See USTR FEDERAL REGISTER notice of August 4, 1987 (52 FR 28896) for article descriptions.**B. Petitions to remove products from the list of eligible articles for the Generalized System of Preferences.**

2613.10.00	7117.11.00	7117.19.30
2620.90.10	7117.19.10	7117.19.50
3301.30.10.20	7117.19.20	7307.19.90

C. Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences.

2825.90.50 (Brazil)
 3903.30.00 (Korea)
 3924.10.20 (Hong Kong, Korea, Mexico)
 3924.10.30 (Hong Kong, Korea, Mexico)
 7312.10.50 (Korea)
 7312.10.70 (Korea)
 7314.50.00 (Korea, Mexico)
 7414.90.00 (Korea, Mexico)
 7604.10.30 (Argentina, Brazil, Mexico, Taiwan, Venezuela, ² Yugoslavia)
 7604.29.30 (Argentina, Brazil, Mexico, Taiwan, Venezuela, ² Yugoslavia)
 7605.11.00 (Argentina, Brazil, Venezuela)
 7605.19.00 (Argentina, Brazil, Venezuela)

7605.21.00 (Argentina, Brazil, Venezuela)
 7605.29.00 (Brazil, Korea, Taiwan, Venezuela)
 7614.10.50 (Argentina, Brazil, Venezuela)
 7614.90.50 (Argentina, Brazil, Venezuela)
 8501.52.40 (Korea, Taiwan)
 8501.53.60 (Korea, Taiwan)
 8501.53.80 (Korea, Taiwan)
 8525.20.60 (Hong Kong, Korea, Taiwan)
 9503.90.40 (Korea, Taiwan) ²
 9506.62.80 (Korea, Taiwan) ²
 9506.69.40 (Korea, Taiwan) ²
 9606.21.40 (Taiwan)

D. Petitions for waiver of competitive-need limit for a product on the list of eligible products.

7011.20.00 (Taiwan)
 7113.11.50 (Thailand)
 7113.19.50 (Thailand)
 7113.20.50 (Thailand)
 7616.90.00(pt.) (Taiwan)
 8525.20.50 (Korea)
 8708.39.50 (Mexico)
 8708.39.50.10 (Mexico)
 8708.39.50.50 (Mexico)

9503.90.40 (Mexico)
 9506.62.80 (Mexico)
 9506.69.40 (Mexico)
 9506.69.60 (Mexico)
 [FR Doc. 87-19571 Filed 8-25-87; 8:45 am]
 BILLING CODE 7020-02-M

[Investigation No. 337-TA-258]

Import Investigations; Certain Moldable/Extrudable Polyetheresteramide Copolymers; Commission Decision To Extend Deadline For Determining Whether To Review an Initial Determination

AGENCY: International Trade Commission.

ACTION: Extension of deadline for deciding whether to review an initial determination.

SUMMARY: Notice is hereby given that the Commission has determined to extend the deadline by which it must decide whether to review the initial determination (ID) (Order No. 8) issued

⁴ Advice is requested on the probable effects of redesignation of the country as eligible for the GSP.² Advice is requested on the probable effects of redesignation of the country as eligible for the GSP.

by the presiding administrative law judge (ALJ) in the above-captioned investigation until 30 days after the ALJ has filed his ruling on the requests for reconsideration of that ID which have been filed by complainant and respondents.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-3395.

SUPPLEMENTARY INFORMATION: On July 15, 1987, the ALJ (Judge Harris) issued an ID (Order No. 8) which granted a joint motion to withdraw the complaint in the investigation and dismissed the complaint with prejudice. The ID also discussed certain matters having to do with the possible settlement agreement termination of the investigation. Complainant and respondents have filed requests for reconsideration of the ID. Complainant has, in addition, filed a petition for review of the ID by the Commission. The Commission investigative attorney has filed responses to the requests for reconsideration and the petition for review, recommending that the Commission delay action on the ID and petition for review until after the ALJ has ruled on the requests for reconsideration.

This action is taken under authority of section 337 of the Tariff Act of 1930 and § 210.53(h) of the Commission's Rules of Practice and Procedure (19 U.S.C. 1337; 19 CFR 210.53(h)).

Copies of the nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202/724-0002.

By order of the Commission.
Kenneth R. Mason,
Secretary.

Issued: August 18, 1987.

[FR Doc. 87-19572 Filed 8-25-87; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-275]

Import Investigations; Certain Nonwoven Gas Filter Elements

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 24, 1987, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) on behalf of Freudenberg Nonwovens Limited Partnership, 20 Industrial Avenue, Chelmsford, Massachusetts 01824. The complaint was supplemented on August 10, 1987. The complaint, as supplemented, alleges unfair methods of competition and unfair acts in the importation of certain nonwoven gas filter elements into the United States, and in their sale by reason of alleged infringement of at least claims 1-4 and 7-9 of U.S. Letters Patent 4,056,375. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Cheri M. Taylor, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-523-0440.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on August 19, 1987, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain nonwoven gas filter elements into the United States, or in their sale by reason of alleged infringement of claims 1, 2, 3, 4, 7, 8, or 9 of U.S. Letters Patent 4,056,375, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Freudenberg Nonwovens Limited Partnership, 20 Industrial Avenue, Chelmsford, Massachusetts 01824.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Filtrair, B.V., De Werf 16, P.O. Box 611, 8440 AP Heerenveen, Holland
APB Corporation, One Commerce Center, Suite 300, P.O. Box 250, Wilmington, Delaware 19899

(c) Cheri M. Taylor, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission 701 E Street, NW, Room 125, Washington, DC 20436, shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Room 156, Washington, DC 20436, telephone 202-523-0471. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

By order of the Commission.

Kenneth R. Mason,
Secretary.

Issued: August 19, 1987.

[FR Doc. 87-19570 Filed 8-25-87; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-248]**Import Investigations: Certain Plastic Fasteners and Processes for the Manufacture Thereof; Commission Decision To Extend The Administrative Deadline and Further Extend The Deadline for Determining Whether To Review an Initial Determination**

AGENCY: International Trade Commission.

ACTION: Extension of the administrative deadline for completion of investigation and further extension of the deadline for deciding whether to review final initial determination.

SUMMARY: Notice is hereby given that the Commission has determined to extend until November 17, 1987, the administrative deadline for completion of the above-referenced investigation as well as extending until September 18, 1987, the deadline by which it must decide whether to review the final initial determination (ID) issued by the presiding administrative law judge (ALJ).

FOR FURTHER INFORMATION CONTACT: Stephen A. McLaughlin, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0421.

SUPPLEMENTARY INFORMATION: On June 19, 1987, the presiding ALJ issued his final ID finding that there is no violation of section 337 in the importation and sale of certain plastic fasteners. The original deadline for deciding whether to review the ALJ's final ID was August 6, 1987, but was subsequently extended to August 14, 1987, the original deadline for completion of the investigation was June 18, 1987, but that deadline was extended to September 18, 1987, while the investigation was pending before the ALJ.

This action is taken under authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.53(h) and 210.59 of the Commission's Rules of Practice and Procedure (19 CFR 210.53(h), 210.59).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202/523-0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202/724-0002.

By order of the Commission.

Kenneth R. Mason,
Secretary.

Issued: August 17, 1987.

[FR Doc. 87-19573 Filed 8-25-87; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-10 (Sub-No. 46)]

Norfolk and Western Railway Co.; Abandonment Between Briery and Jarratt in Prince Edward, Lunenburg, Brunswick, Greensville, and Sussex Counties, VA; Findings

The Commission has issued a certificate authorizing the Norfolk and Western Railway Company to abandon its 63.6-mile line of railroad between Jarratt (milepost V-73.3) and Briery, VA (milepost V-136.9). The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

Decided: August 20, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Vice Chairman Lamboley concurred in the result with a commenting expression.

Noreta R. McGee,

Secretary.

[FR Doc. 87-19563 Filed 8-25-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31090]

Railroad Operation, Continuance in Control Exemption; Richard J. Corman Railroad Co., Memphis Line

Richard J. Corman (Corman), an individual, has filed a notice of exemption to continue in control of R.J.

Corman Railroad Company—Memphis Line (C-M), a newly-formed rail carrier.

Mr. Corman owns all of the outstanding stock of C-M and of R.J. Corman Railroad Corporation (RJC). RJC is a Class III carrier that operates a rail line between Bardstown Junction, KY, and Wickland, KY.

C-M will acquire, under a purchase agreement with CSX Transportation, Inc., 62.2 miles of rail line extending between South Union, KY (milepost 128.00), and Zinc, TN (milepost 182.50), and between Russelville, KY (milepost 144.30), and Lewisburg, KY (milepost 152.00). CSX will retain trackage rights between Guthrie, KY (milepost 164.00), and Zinc, TN (milepost 182.50). A transaction relating to C-M's acquisition and operation of these lines is the subject of a notice of exemption in Finance Docket No. 31091, filed concurrently with this notice.

Mr. Corman states that RJC and C-M do not connect with each other and that the continuance in control by Mr. Corman of RJC and C-M is not part of a series of anticipated transactions that would lead to a connection between them or any railroad in their corporate family. This is a transaction involving the acquisition or continuance in control of a nonconnecting carrier that is exempt from the prior-review requirement of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). This will satisfy the requirements of 49 U.S.C. 10505(g)(2).¹

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: August 10, 1987.

By the Commission, Jane F. Mackall,
Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-19556 Filed 8-25-87; 8:45 am]

BILLING CODE 7035-01-M

¹ The Railway Labor Executives' Association (RLEA) filed a request for labor protection. Since this transaction involves an exemption from 49 U.S.C. 11343, whereby the imposition of labor protective conditions is mandatory, labor protective conditions have been imposed above.

[Finance Docket No. 31091]

Railroad Operation; R.J. Corman Railroad Co., Memphis Line Exemption, Acquisition and Operation; Certain Lines of CSX Transportation, Inc.

R.J. Corman Railroad Company—Memphis Line (C-M), a non-carrier, has filed a notice of exemption to acquire and operate 62.2 miles of rail line from CSX Transportation, Inc. (CSX), extending between South Union, KY (milepost 128.00), and Zinc, TN (milepost 182.50), and between Russellville, KY (milepost 144.30), and Lewisburg, KY (milepost 152.00). CSX will retain trackage rights between Guthrie, KY (milepost 164.00), and Zinc, TN (milepost 182.50). A transaction relating to the control of C-M is the subject of a notice of exemption filed concurrently in Finance Docket No. 31090. Any comments must be filed with the Commission and served on Deborah A. Phillips, Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 800, 1350 New York Avenue, NW., Washington, DC 20005-4797, and on David Hemphill, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202. This transaction will also involve the issuance of securities by C-M, which will be a Class III carrier. The issuance of these securities is an exempt transaction under 49 CFR 1175.1.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: August 10, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,
Secretary.

[FR Doc. 87-19557 Filed 8-25-87; 8:45 am]

BILLING CODE 7035-01-M

[Decision No. 1, Finance Docket No. 31088]

Railroad Operation; Intent to File Application; Southern Railway Co. and Norfolk Southern Corp. Purchase; Illinois Central Gulf Railroad Company Lines Between Fulton, KY and Haleyville, AL.

Decided: August 19, 1987.

Pursuant to 49 CFR 1180.4(b), Southern Railway Company (Southern), Norfolk Southern Corporation (NS), and Illinois Central Gulf Railroad Company (ICG) have notified the Commission of their

intent to file an application seeking Commission approval and authorization, under 49 U.S.C. 11343 *et seq.*, for Southern to acquire ICG's line of railroad between milepost 406.1 in Fulton, KY and milepost 80.16 in Haleyville, AL, a distance of approximately 199 miles. Southern also intends to acquire ICG branch lines to Bemis, Poplar Corner and Carroll, TN. A related application will be filed seeking approval and authorization under 49 U.S.C. 11343 for Southern to acquire trackage rights over ICG between milepost 406.1 in Fulton, KY, and milepost 252.4 in Centralia, IL, a distance of approximately 154 miles.

Southern is a subsidiary of NS, which also owns and controls Norfolk and Western Railway Company (NW). "Applicant carriers" will include Southern, NW, and their consolidated railroad subsidiaries.

Southern or an affiliated applicant carrier will operate the acquired line and trackage rights as a direct route between Birmingham, AL and St. Louis, MO. Applicants believe this direct route will result in significantly more efficient and effective competitive service. The transaction will also extend Southern's service into a new market along the Fulton, KY to Corinth, MS portion of the line being acquired.

Applicants will use the year 1986 for purposes of their impact analyses to be filed in the application. They intend to file the application on or about October 1, 1987.

Because the application involves one Class I railroad acting together with another Class I railroad in a major market extension, it is a "significant" transaction under 49 CFR 1180.2(b) and is subject to the requirements in 49 CFR Part 1180 for significant transactions. Modification of the evidentiary requirements may be ordered on our own motion or in response to appropriate requests for waiver. A request has also been made for partial revocation of the class exemption for the acquisition of trackage rights at 49 CFR 1180.2(d)(7) to allow the filing and concurrent consideration of a directly-related trackage rights application. We will establish a procedural schedule after the application has been filed and accepted as complete.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,
Secretary.

[FR Doc. 87-19559 Filed 8-21-87; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 394 (Sub-No. 4)]

Cost Ratio For Recyclables; 1987 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed determination of maximum rate ceiling for rates on nonferrous recyclable commodities for the year 1987.

SUMMARY: The Commission has calculated the proposed 1987 revenue-to-variable cost (R/VC) ratio for rates on nonferrous recyclables under the statutory standard of 49 U.S.C. 10731(e). The calculation was made in accordance with the procedures outlined in our decision in Ex Parte No. 394 (Sub-No. 1), *Cost Ratio for Recyclables—1983 Determination*, 3 I.C.C.2d 407 (June 19, 1985). The proposed R/VC ratio for 1987 is 149.1 percent.

COMMENTS: Comments are due on September 15, 1987.

DATES: This decision will be effective on September 15, 1987, unless comments are received, in which case the effective date will automatically be postponed and a further decision will be issued.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 275-7354 (TDD for hearing impaired (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to Office of Secretary, Room 2215, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 275-7428 (assistance for the hearing impaired is available through TDD services (202) 275-1721).

This action will not significantly affect either the quality of the human environment or energy conservation. This proceeding will not have a significant impact on a substantial number of small entities.

Decided: August 18, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,
Secretary.

[FR Doc. 87-19560 Filed 8-25-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 207X)]

Railroad Services; Abandonment of Track in Colleton County, SC; CSX Transportation, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by CSX Transportation, Inc., of 14.16 miles of track in Colleton County, SC, subject to conditions for labor protection, public use, historic preservation, and protection of endangered species.

DATES: This exemption is effective on September 25, 1987. Petitions to stay must be filed by September 10, 1987 and petitions for reconsideration must be filed by September 21, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 207X) to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
- (2) Petitioner's representative: Patricia Vail, 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245 (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357 (assistance for the hearing impaired is available through TDD services (202) 275-1721) or by pickup from TSI in Room 2229 at Commission headquarters.

Decided: August 18, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Vice Chairman Lamboley concurred in the result with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 87-19558 Filed 8-25-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE**Antitrust Division****Proposed Termination of Final Judgment; Parke Davis & Co. et al.**

Notice is hereby given that defendant Eli Lilly and Company has filed with the United States District Court for the Eastern District of Michigan a motion to terminate the final judgment in *United States v. Parke Davis & Company and Eli Lilly and Company*, Civil No. 8940; Warner-Lambert Company, as successor to defendant Parke Davis & Company, has joined Lilly's motion; and the Department of Justice ("Department"), in

a stipulation also filed with the court, has consented to termination of the judgment as to both Lilly and Warner Lambert, but has reserved the right to withdraw its consent pending receipt of public comments. The complaint in this case (filed on February 9, 1950) alleged that defendants conspired to fix prices of hard gelatin capsules (used as soluble containers for medicines) and to restrain and monopolize interstate trade and commerce in such capsules and in machinery for making and filling them, and that, by acquiring and using United States patents, among other things, defendants had actually monopolized such trade and commerce.

The judgment (entered on September 6, 1951) requires, among other things, that defendant Lilly and Warner-Lambert, as successor to defendant Parke Davis: (1) License (a) royalty free, its United States hard gelatin capsule and related machinery patents issued or acquired by the decree's entry date, and (b) at a reasonable royalty, those patents issued or acquired within five years thereafter, or issued on United States patent applications either pending on that date or filed within five years thereafter; (2) lease or sell capsule making and filling machines under certain conditions; and (3) furnish relevant instruction manuals and technical information to any patent licensee and any lessee or purchaser of a capsule filling machine. The judgment also enjoins Lilly and Warner-Lambert from, among other things: (1) Further performing under, enforcing, adhering to, maintaining, or reviving the agreement between defendants cancelled by the judgment or any of several similarly cancelled provisions of the agreement between defendant Parke, Davis & Company and Arthur Colton Company; (2) disposing of any patent to be licensed under the decree without also transferring the obligation to license it, or acquiring certain other patent rights unless (a) those rights are non-exclusive, and (b) that defendant or the licensor thereof agrees to offer to any applicant the equivalent rights on equally favorable terms and conditions; (3) bringing, threatening to bring, or maintaining any action for infringement of any patent to be licensed royalty free under the decree, or seeking damages or royalties thereon, for acts alleged to have occurred before entry of the decree; (4) furnishing to each other hard gelatin capsule-related technical information not also furnished to all other capsule manufacturers; (5) selling or leasing capsule filling machines on condition that only its capsules, or a specified volume of its supplies, be used in such machines, or selling or making available

hard gelatin capsules on condition that they, or a specified volume of them, be used only in its capsule filling machines; (6) granting cumulative quantity discounts to capsule purchasers; and (7) entering into or maintaining any agreement or understanding (a) to fix capsule prices, or (b) to restrain or prevent any person from (i) producing or selling capsules or capsule making or filling machines or (ii) buying or leasing such machines.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the judgment would serve the public interest. Copies of the complaint and final judgment, Lilly's motion papers, all papers filed by Warner-Lambert as successor to defendant Parke Davis, the stipulation containing the Government's consent, the Department's memorandum, and all further papers filed with the court in connection with this motion will be available for inspection at Room 7233, Antitrust Division, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone 202/633-2481), and at the Office of the Clerk of the United States District Court for the Eastern District of Michigan, 231 West Lafayette Street, Detroit, Michigan 48226. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within the sixty (60) day period established by court order, and will be filed with the court. Comments should be addressed to John W. Clark, Chief Professions and Intellectual Property Section, Antitrust Division, Department of Justice, Washington, DC 20530 (Telephone: 202/724-6335).

Dated: August 19, 1987.

Joseph H. Widmer,

Director of Operations, Antitrust Division.

[FR Doc. 87-19492 Filed 8-25-87; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Act of 1984; Portland Cement Association; Notification; Membership Change

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney

General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, PAC advised that General Portland Inc. will be listed as Lafarge Corporation, the correct spelling for Calaveras is Calaveras, Lone Star-Falcon will be listed as LoneStar-Falcon, and Centennial Engineering, Inc. and Allis-Chalmers Corp. have resigned as "Participating Associates" of the Manufacturing Process Committee of PCA's General Technical Committee.

Accordingly, at present the members of the PCA are those companies listed below:

United States

Aetna Cement Corp.
Alaska Basic Industries
Ash Grove Cement Co.
Ash Grove Cement West, Inc.
Blue Circle Atlantic, Inc.
Blue Circle, Inc.
Blue Circle West Inc.
Calaveras Cement Co.
CalMat Co.
Capitol Aggregates, Inc.
Capitol Cement Corp.
Independent Cement Corp.
Lafarge Corp
Lehigh Portland Cement Co.
LoneStar-Falcon
Lone Star Industries, Inc.
Medusa Cement Corp.
Missouri Portland Cement Co.
The Monarch Cement Co.
Moore McCormack Cement, Inc.
Northwestern States Portland Cement Co.
Continental Cement Co.
Davenport Cement Co.
Dragon Products Co.
Dundee Cement Co.
Hawaiian Cement
Ideal Basic Industries, Inc.
Rinker Materials Corp.
Rochester Portland Cement Corp.
St. Marys Peerless Cement Co.
St. Marys Wisconsin, Inc.
The South Dakota Cement Plant
Southwestern Portland Cement Co.
Tarmac-LoneStar, Inc.
Tilbury Cement Co.

Canada

Canada Cement Lafarge Ltd.
Federal White Cement Ltd.
Inland Cement Ltd.
Lake Ontario Cement Ltd.
North Star Cement Ltd.
St. Lawrence Cement Inc.
St. Marys Cement Corp.
Tilbury Cement Ltd.

In addition, the following equipment suppliers are involved as "Participating

Associates," together with PCA members, in the activities of the Manufacturing Process Subcommittee of PCA's General Technical Committee: Baker-Dolomite (DBCA) C-E Raymond Holderbank Consulting Ltd. Humboldt Wedag Co. F.L. Smith and Co. Claudius Peters, Inc. Polysius Corp. The Fuller Co.

On January 7, 1985, PCA filed its original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the *Federal Register* pursuant to section 6(b) of the Act on February 5, 1985, 50 FR 5015. On March 14, 1985, August 13, 1985, January 3, 1986, February 14, 1986, May 30, 1986, July 10, 1986, December 31, 1986 February 3, 1987, April 17, 1987, and June 3, 1987, PCA filed additional written notifications. The Department published notices in the *Federal Register* in response to these additional notifications on April 10, 1985 (50 FR 14175), September 16, 1985 (50 FR 37594), February 4, 1986 (51 FR 4440), March 12, 1986 (51 FR 8573), June 27, 1986 (51 FR 23479), August 14, 1986 (51 FR 29173), February 3, 1987 (52 FR 3356), March 4, 1987 (52 FR 6635), May 14, 1987 (52 FR 18295), July 10, 1987 (52 FR 28183), respectively.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87-19493 Filed 8-25-87; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Act of 1984; Forecast of Fuel Composition to the Year 2000 Project (Southwest Research Institute)

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.*, Southwest Research Institute ("SwRI") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: "Forecast of Fuel Composition To The Year 2000." The notification discloses (1) the identities of the parties to the project and (2) the nature and objective of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Information Resources, Inc.
PSA Etudes Et Recherches, acting on its behalf as well as on behalf of Peugeot, S.A. subsidiaries
Texaco, Inc.
Volvo of America Corp.
Burlington Northern Railroad Co.

The purpose of the project is to project fuel composition and fuel quality to the year 2000 of gasoline, diesel fuel and jet fuels through a detailed evaluation of the following factors, as appropriate to a particular fuel. Gasoline quality will be projected through a detailed evaluation of: Current and recent gasoline quality, lead phasedown requirements, other regulated items, regional and seasonal variations, refinery processing trends, alcohol blend regulations and tax incentives, and future gasoline demand. Diesel fuel quality will be projected through a detailed evaluation of: Current diesel fuel quality and past trends, refinery processing trends, crude oil quality trends and imported distillates, segregation of distillate fuels, and new government regulations. The projected quality of distillate commercial jet fuels will be projected by analyzing: Current and recent jet fuel property trends, refinery surveys, jet fuel demand and airline trends, competing distillate markets, and military jet fuel requirements.

Membership in this group research project remains open.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87-19494 Filed 8-25-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

New Personal Audio Dosimeter Accepted

AGENCY: Mine Safety and Health Administration (MSHA) Labor.

ACTION: Notice of MSHA acceptance of a new personal audio dosimeter.

SUMMARY: After testing and evaluation, the Mine Safety and Health Administration (MSHA) announces the acceptance of the Quest Electronics Model Micro-14 Audio Noise Dosimeter for use in coal mines.

EFFECTIVE DATE: August 26, 1987.

FOR FURTHER INFORMATION CONTACT: Robert G. Peluso, Pittsburgh Technical Support Center, Mine Safety and Health Administration, 4800 Forbes Avenue, Pittsburgh, PA 15213, (412) 621-4500.

SUPPLEMENTARY INFORMATION: On September 12, 1978, the Mine Safety and Health Administration (MSHA) published a final rule that became effective on October 1, 1978 and amended the mandatory health standards governing noise dosimeters (43 FR 40760). Those amendments to 30 CFR Parts 70 and 71 permitted the use of personal noise dosimeters to make required noise exposure measurements in coal mines and set forth the procedures to be followed in taking such noise measurements. When noise exposure measurements and surveys required by Parts 70 and 71 are taken by personal noise dosimeters, the dosimeters must be acceptable to MSHA.

The test and criteria used by MSHA to determine acceptability of personal noise dosimeters are published in "MSHA Test Procedures and Acceptability Criteria for Noise Dosimeters." MSHA Informational Report IR-1072.

MSHA has recently completed testing and evaluation of the Quest Electronics Model Micro-14 Audio Noise Dosimeter. MSHA has determined that the dosimeter met all of the criteria listed in MSHA Informational Report IR-1072 and hereby gives notice that this dosimeter is acceptable for use under 30 CFR 70.506 and 71.801.

Accordingly, operators may use the Quest Electronics Model Micro-14

Audio Noise Dosimeter to take the noise exposure measurements and surveys at underground coal mines as required by 30 CFR 70.503, 508 and 509 and at surface coal mines as required by 30 CFR 71.802, 803 and 804.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: August 17, 1987.

[FR Doc. 87-19561 Filed 8-25-87; 8:45 am]

BILLING CODE 4510-43-M

MERIT SYSTEMS PROTECTION BOARD

Information Collection To Obtain Information From Users of MSPB Decisions

AGENCY: Merit Systems Protection Board.

ACTION: Information collection request submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, Pub. L. 96-511, 5 U.S.C. Chapter 35, for review.

SUMMARY: The Merit Systems Protection Board (MSPB) has requested OMB review under 5 CFR 1320.12 of a questionnaire to be used to collect, from users of MSPB decisions, information concerning the adequacy of the Board's method of citing past cases in its current decisions. This information would be

used to ensure that the Board's method of citing cases meets the needs of the users of those decisions.

DATE: Comments concerning this information collection must be submitted on or before September 25, 1987.

ADDRESSES: Copies of the submission of OMB may be obtained from Paul D. Mahoney, Director, Policy and Evaluation, Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, DC 20419; telephone (202) 653-8900. Comments on the submission should be addressed to the Office of Management and Budget, Office of Information and Regulatory Management and Budget, Office of Information and Regulatory Affairs, Room 3208, New Executive Office Building, Washington, DC 20503, Attention: Katie Lewin, Desk Officer for MSPB; telephone (202) 395-7321.

FOR FURTHER INFORMATION CONTACT: Keith Bell, Office of Policy and Evaluation, Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, DC 20419; telephone (202) 653-7208.

Date: August 21, 1987.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 87-19546 Filed 8-25-87; 8:45 am]

BILLING CODE 7400-01-M

NUCLEAR REGULATORY COMMISSION

Bi-weekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all notices of amendments issued, or proposed to be issued from August 3, 1987 through August 14, 1987. The last bi-weekly notice was published on August 12, 1987 (52 FR 29909).

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 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC TPublic Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 25, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the

Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that

the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al.,
Docket No. STN 50-528, Palo Verde
Nuclear Generating Station (PVNGS),
Unit 1, Maricopa County, Arizona

Date of amendment request: June 29, 1987

Description of amendment request:
The proposed amendment consists of a number of proposed changes to the Technical Specifications (Appendix A to Facility Operating License No. NPF-41) in support of Cycle 2 operation for the plant. The specific proposed changes are discussed below:

(1) Specification 5.3.1 - propose to change the fuel maximum enrichment from 4.0 to 4.05 weight percent U-235 in

support of achieving 18 month equilibrium cycles.

(2) Specification 3.1.1.2 - propose to change Figure 3.1-1A, "Shutdown Margin Versus Cold Leg Temperature," by changing the Hot Zero Power endpoint from 6.0 to 6.5% delta k/k to maintain plant operation during Cycle 2 within the bounds of safety analysis.

(3) Specification 3.1.1.3 - propose to change Figure 3.1-1, "Allowable MTC Modes 1 and 2," by broadening the operating bounds of the Moderator Temperature Coefficient (MTC) to accommodate Cycle 2 operation, and by revising the x axis parameter from average moderator temperature to core power level. The change to the Figure is proposed to ensure that the assumptions used in accident and transient analyses remain valid through each fuel cycle.

(4) Specification 3.2.8 - propose to change the operational pressure band of the pressurizer from 1815 - 2370 psia to 2025 - 2300 psia to ensure that the actual value of the pressurizer pressure is maintained within the range of values used in safety analyses.

(5) Specifications 3.1.3.1, 3.1.3.2 and 3.1.3.7 - propose to add a new specification (3.1.3.7) to specify insertion limits for part length Control Element Assemblies (CEA), and to delete the part length CEA insertion limits from Specifications 3.1.3.1 and 3.1.3.2. The proposed change would add a more explicit limiting condition for operation of the part length CEAs to clarify the allowable duration for these CEAs to remain within the defined ranges of axial position. T

(6) Specification 3.3.1 - propose to change Table 3.3-2 in this specification by decreasing the response time, from 0.75 to 0.30 seconds, for the DNBR - Low Reactor Coolant Pump Shaft Speed Trip. The proposed change would be consistent with the faster response time assumed in the Cycle 2 safety analysis.

(7) Specification 3.1.3.6 - propose to make the insertion limits for the full length CEAs in Figures 3.1-3 and 3.1-4 more restrictive due to the proposed changes in Cycle 2 core physics. The revised insertion limits are proposed to ensure that there is sufficient margin to mitigate the effects of a dropped CEA or an ejected CEA.

(8) Specification 3/4.3.1 - propose to change Table 3.3-2 by excluding an allowance to enter Core Protection Calculator (CPC) penalty factors to compensate for Resistance Temperature Detector (RTD) response times greater than 8 seconds. Table 3.3-2a, which specifies the amounts of the allowable CPC penalty factors, would be deleted. The proposed change would be required since the Cycle 2 safety analyses do not

consider RTD response times greater than 8 seconds and, therefore, allowances for longer response times would not be permissible during Cycle 2 operation.

(9) Specification 2.1.1.1 and Table 2.2-1 - propose to change the Departure from Nucleate Boiling Ratio (DNBR) limitation from 1.231 to 1.24; delete references to the calculation of additional rod bow penalties into the DNBR limit; and change the pressurizer pressure floor incorporated into the DNBR limit from 1861 to 1860 psia. The proposed changes would be required to account for the core changes in Cycle 2.

(10) Specification 3.2.5 - propose to change the minimum Reactor Coolant System (RCS) total flow rate in Mode 1 from 164.0×10^6 to 155.8×10^6 lbm/hr. The proposed value of 155.8×10^6 lbm/hr is higher than the value used in the safety analysis (i.e., is more conservative). The proposed change would eliminate ambiguity regarding compensation for instrument uncertainty.

(11) Specification 3.2.1 - propose to change the Linear Heat Rate (LHR) limit for the fuel assemblies from 14.0 to 13.5 kw/ft and to delineate how LHR is to be monitored. The change is proposed to ensure that the peak fuel clad temperature does not exceed safety limits during Cycle 2 operation.

(12) Specifications 3.2.4 and 3.3.1 - propose to change Specification 3.2.4 as follows: (a) provide a new format which would address the specific conditions for monitoring DNBR with or without COLSS and/or the CEACs, (b) provide a new format which would delineate the Actions that should be taken, (c) remove reference to the DNBR Penalty Factor table used in Specification 4.2.4.4, and (d) replace the present graph Figures 3.2-1 and 3.2-2 for the DNBR limits with graph Figures 3.2-1, 3.2-2 and 3.2-2a which would address the DNBR operating limits for the conditions mentioned in (a) above. Propose to change Specification 3.3.1 by: (a) removing references to the operation of the reactor with both CEA calculators (CEACs) inoperable with or without the Core Operating Limit Supervisory System (COLSS) in service, and (b) deleting the graph of DNBR margin operating limit based on COLSS for both CEACs inoperable (Figure 3.3-1) since these changes would be incorporated into the proposed changes in Specification 3.2.4. The changes are proposed to ensure operation of Cycle 2 within safety analysis limits and to improve these Specifications from a human factors point of view.

(13) Specification 3.2.7 - propose to delete numerical references for the

limits on the Axial Shape Index (ASI) when COLSS is operable, and to provide clarification and consistency for monitoring ASI. The change is proposed to eliminate the need to change Specification 3.2.7 for each cycle and to provide a more consistent approach to monitoring ASI.

(14) Specification 3.3.2 - propose to change Table 3.3-4 by removing the "greater than" sign from the Refueling Actuation Signal (RAS) trip value in order to ensure optimal protection of the Refueling Water Storage Tank pumps by maintaining adequate margin for the RAS trip value within the allowable values specified in Table 3.3-4.

(15) Administrative Changes - propose to change the Bases Sections for Specifications 3/4.3.1, 3/4.3.2 and 2.2.1 to ensure clarity and conciseness. The proposed changes to the Bases Sections for 3/4.3.1 and 3/4.3.2 would update, to the latest approved revision, the report used for controlling changes to the CPC software, and remove Cycle 1 specific information. The proposed changes to the Bases Section for 2.2.1 would refer to the appropriate CE reports to be used for calculating trip setpoint values.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided guidance for determining whether a proposed amendment involves a significant hazards consideration (51 FR 7751). Examples of amendments that are not likely to involve a significant hazards consideration are as follows:

(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error or a change in nomenclature.

(ii) A change that constitutes an additional limitation, restriction or control not presently included in the technical specifications: for example, a more stringent surveillance requirement.

(iii) For a nuclear power reactor, a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical specifications, that the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable.

The staff considers the first 12 items of the proposed amendment to be similar to example (iii) since they are

directly related to a reactor core reloading and the fuel assemblies are not significantly different than those previously found acceptable for the initial core loading at Palo Verde. The only difference is the proposed increase for maximum fuel enrichment from 4.0 to 4.05%. In addition, no significant changes are being made to the previously approved acceptance criteria for the technical specifications or to the analytical methods used to demonstrate conformance with the specifications and regulations.

Items (2) and (4) through (9) are also similar to example (ii) since they involve more restrictive limitations in the technical specifications to ensure that operation of the facility during Cycle 2 remains within the bounds of the safety analyses. Items (10), (11) and (12) are also similar to example (i) since they involve certain clarifications to the technical specifications as well as a proposed new format for Specifications 3.2.4 and 3.3.1.

The staff considers Items (13) and (15) to be similar to example (i) since they involve a clarification and administrative changes to the technical specifications.

The staff considers Item (14) to be similar to example (ii) since it imposes a more stringent limitation to the RAS trip value.

Accordingly, the Commission has proposed to determine that the above changes do not involve a significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: George W. Knighton

Arizona Public Service Company et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2, and 3, Maricopa County, Arizona

Date of amendment request: July 1, 1987 and August 7, 1987

Description of amendment request: The proposed amendment consists of a proposed change to the Technical Specifications (Appendix A to Facility TOperating License Nos. NPF-41, NPF-51, and NPF-65 for PVNGS, Units 1, 2 and 3 respectively).

Technical Specification 6.8.1.(o) requires that a Control Element Assembly (CEA) Symmetry Test Program be implemented. An accompanying note references Section

4.2.2 of the Commission's Safety Evaluation Report for Palo Verde Nuclear Generating Station (November 11, 1981) which includes a requirement to perform a CEA Symmetry Test at the beginning of each cycle of operation. The proposed change would rename the program to CEA Reactivity Integrity Program and would expand the note to allow either the CEA Symmetry Test or an alternate test program to be used.

The alternate test program has been developed by Combustion Engineering (C-E) for the C-E Owner's Group whereby the CEA Group Worth Measurements are replaced by a CEA Exchange Test and the CEA Symmetry Test is replaced as a means of verifying that no fuel assembly misloading has occurred by a Flux Symmetry Test using the incore neutron detector system. The program allows the required measurements to be performed in less time, thereby reducing the length of time during which the plant is operated with off-normal control rod configuration of design values.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensees have provided a discussion of the proposed change as it relates to these standards; the discussion is presented below.

Standard 1 - Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The concern, being addressed by the subject Technical Specification, is the potential for control material to be lost from CEAs through perforations in the CEA cladding and for such loss to go undetected. Such an undetected loss could result in a reduction in the available CEA shutdown worth and violate assumptions made in the Safety Analysis regarding such. The program, which has previously been accepted by

the NRC to address this concern, utilizes a CEA Symmetry Test which is performed at the beginning of each cycle of operation to assess the relative worths of the individual CEAs.

The alternate surveillance method would consist of measuring the reactivity worth of all full-length CEA groups and comparing them to design predictions. The licensee stated that the proposed alternate surveillance methods will be no less adequate than the CEA Symmetry Test in identifying events of loss of CEA control material which could significantly degrade available shutdown margin. Therefore, the proposed change does not involve a significant increase in the probability or consequence of an accident previously evaluated.

Standard 2 - Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated.

The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. As described above, the alternate surveillance method (the CEA Group Exchange Test) measures the worth of entire groups whereas the CEA Symmetry Test measures individual CEAs. By allowing the performance of the Exchange Test, the plant would experience less off-normal control rod configurations of design values, thus reducing the possibility of any kind of accident occurring.

Standard 3 - Involve a Significant Reduction in a Margin of Safety.

The proposed change does not involve a significant reduction in a margin of safety because it does not affect the design basis of the plant. The subject technical specification is associated with concern for a potential loss of available shutdown worth. The mechanism for this reduction is a loss of CEA clad integrity accompanied by a subsequent loss of control material. The licensees stated that the CEA design has functioned well at other plants. The licensees also stated that, since the probability of a breach of CEA clad integrity is small throughout its design lifetime and since the mechanism by which control material would be lost subsequent to a loss of integrity occurs slowly, the possibility of such an occurrence is quite small. The licensees further stated that the worths of Tall full-length CEA groups will be measured and compared to design predictions as part of the test program. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The staff has reviewed the licensees' no significant hazards consideration determination and agrees with the licensees' analysis.

Accordingly, the Commission has proposed to determine that the above change does not involve a significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: George W. Knighton

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529 and STN 50-530, Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2 and 3, Maricopa County, Arizona

Date of amendment request: August 10, 1987

Description of amendment request: The proposed amendments would modify the Technical Specifications, Section 6, "Administrative Controls," Parts 6.1 through 6.8 and Figures 6.2-1 & 6.2-2, for each unit to reflect a proposed change to the licensees' nuclear organizational structure. The proposed changes to the organizational structure are as follows: T

- (1) Revise the duties of the Vice President-Nuclear Production to eliminate daily responsibilities over offsite activities in order to focus attention on operating activities.
- (2) Establish a Plant Manager for each of the three Palo Verde units, reporting to the Vice President-Nuclear Production, who will be responsible for operations, maintenance and other daily activities relating to unit performance.
- (3) Revise the duties of the Assistant Vice President to oversee the onsite support functions for the units. He will continue to report to the Vice President-Nuclear Production.

(4) Establish an onsite Director of Standards and Technical Support, reporting to the Vice President-Nuclear Production, to oversee control of plant standards used by the units for operations, maintenance and work practices, and to provide support for and control over other existing programs, such as the system engineer concept and performance of validation and surveillance testing.

(5) Establish a Director of Engineering and Construction, reporting to the Executive Vice-President, whose responsibilities will also include nuclear fuel, cost and schedule and records management.

(6) Establish a Director of Site Services, reporting to the Executive Vice President, whose responsibilities will include security, training, emergency planning and material control.

(7) Establish a Director of Nuclear Safety and Licensing, reporting to the Executive Vice President, whose responsibilities will also include compliance and technical data.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

A discussion of the proposed change, as it related to these standards is presented below.

Standard 1 - Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change involves a restructuring of the licensees' nuclear organization. The change does not effect plant design, plant operation or any limiting condition for operation in the Technical Specifications. Therefore, the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Standard 2 - Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated since it is administrative in nature and does not alter plant design, plant operating conditions or component requirements. T

Standard 3 - Involve a Significant Reduction in a Margin of Safety.

The proposed organization does not delete any responsibilities currently existing in the present organization; in some cases, those responsibilities would be assigned to a different manager. The proposed organization would reduce the layers of management. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Accordingly, the Commission has proposed to determine that the above change does not involve a significant hazards consideration.

Local Public Document Room
Location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: George W. Knighton

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: June 21, 1985 as supplemented by letters dated September 24, 1985, June 4, 1987, and August 13, 1987.

Description of amendment request: The amendment would revise the Technical Specifications (TS) by updating the Table of Primary Containment Isolation Valves (TS Table 3.7-1) as follows:

Past and Proposed Design Changes
HPCI Vacuum Breakers - Vacuum breakers are being added to the HPCI system to prevent water hammers. A Group 7 Isolation has been added for these valves. This modification will improve system reliability.

Reactor Water Sample - These lines will be used for continuous sampling for crack arrest verification. The normal valve position has been changed from closed to open. All isolation signals, in the event of an accident, remain the same.

Purge Valves - The original 20 in. valves have been replaced with 8 in. valves for better operability. The closing times have been reduced to prevent over-pressurization of the ductwork outside of primary containment following a design basis LOCA.

H₂, O₂, Post Accident Sampling System (PASS), and Leak Detection Valves - The original hydrogen and oxygen sample systems have been modified in accordance with NUREG-0737. These are post-accident systems.

Correct Previous Errors

Valve Line-ups - Valves AO-5033B, AO-5035B and AO-5036 A/B are maintained in a normally closed position.

Traveling Incore Probe (TIP) Ball valves are being added to the Table.

Editorial Changes

Definition EE - This definition was numbered "Y" in the Proposed Technical Specification submitted June 21, 1985. Because of recent Technical Specification amendments, this definition is renumbered to "EE."

Technical Specifications 3.7.A.2.b and 4.7.A.2.b.2 - References to Table 3.7-1 have been added to this Limiting Conditions for Operation (LCO) Tand surveillance to incorporate the table into the Proposed Technical Specification submitted June 21, 1985.

Valve and Penetration Numbers - These have been added to the table to assure correct identification of the valves.

Group I Isolation, Condition 5 - The original wording of this condition has caused confusion. The proposed rewording (into Conditions 5 and 6) will avoid misinterpretation.

Footnotes - The footnotes have been reworded and four footnotes have been added to provide clarity for the plant operators.

Removal of HPCI Suction Valve From Table 3.7-1

The HPCI torus suction isolation valves (MO2301-35 and 36) are removed from Table 3.7-1 because the line which they isolate terminates below the free water surface of the suppression pool and will remain so throughout the duration of any accident. Consequently, these valves are not relied upon to prevent the escape of containment atmosphere to the environs, and therefore, do not perform a containment isolation function.

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 Tsafety. The Licensee in their submittals of June 4, and August 13, 1987 addressed these standards as follows:

1. Operating Pilgrim Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

HPCI Vacuum Breakers - The HPCI vacuum breaker modification requires a new penetration in primary containment. Two valves are provided to ensure completion of the safety action (primary containment isolation) prior to uncovering the fuel in the event of a design basis accident (DBA). This modification enhances the performance

of the HPCI system, and other accident mitigating systems which utilize the torus, by reducing the possibility of failure due to hydrodynamic transients. The function of relieving vacuum in the HPCI turbine exhaust line is better performed by the added vacuum breaker.

Reactor Water Sample Valves - Changing the normal position of the Reactor Water Sample valves from closed to open does not affect the safety function of the valves or any other system and allows continuous sampling for crack arrest verification. These valves automatically close upon receipt of containment isolation signals.

Purge and Vent Valves - Reduction of the maximum closing times for the Purge and Vent valves will have no adverse effects on primary containment integrity. The original 20 in. valves have been replaced with more reliable 8 in. valves. Reduction of the maximum closing times prevents over-pressurizing the ductwork located outside containment following a design basis LOCA.

H₂, O₂, PASS and Leak Detection Valves - The original Hydrogen and Oxygen Analyzer systems were modified for the H₂, O₂, PASS and Leak Detection Systems. The modifications included a reduction in the total number of primary containment isolation valves (several penetrations were cut and capped) and upgrading the system with faster closing solenoid valves. These valves ensure containment isolation prior to fuel uncovering in the event of an accident.

HPCI Suction Valves - The HPCI torus suction isolation valves (MO2301-35 and 36) are removed from Table 3.7-1 because the line which they isolate terminates below the free water surface of the suppression pool and will remain so throughout the duration of any accident. Consequently, these valves are not relied upon to prevent the escape of containment atmosphere to the environs and, therefore, do not perform a containment isolation function. The containment isolation function of these valves was reviewed previously by the NRC, and their concurrence with the above evaluation is documented in NRC letter to BECo, dated April 28, 1981.

Corrections of Previous Errors and Editorial Changes - During the BECo review of Table 3.7-1, several errors were identified and have been corrected: 4 valves were shown open and are normally closed; 2 valves have been removed because they are not primary containment isolation valves; and, the TIP Ball valves have been added.

2. Operating Pilgrim Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The new vacuum breaker for the HPCI system has been designed to equal to or more stringent requirements than the original requirements for the HPCI system. The new primary containment penetration has been provided with automatic isolation valves with closing times in accordance with the Pilgrim FSAR.

Changing the normal position of the Reactor Water Sample valves from closed to open does not impact their safety operation. The isolation signals remain unchanged, and function to isolate on all Group 1 and 2 signals. The modification to the Purge and Vent lines replaces the 20 in. valves with more reliable 8 in. valves.

The post accident sampling modifications, made in accordance with NUREG-0737, utilized existing sampling system primary containment penetrations. The original valves were replaced with more reliable solenoid valves. Removal of the HPCI suction valves from Table 3.7-1 does not represent a plant design change. These valves are not relied upon to perform a containment isolation function.

3. Operating Pilgrim Station in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.

Each of the affected components, with the exception of the HPCI torus suction valves (see below), are safety-related containment isolation valves that are required to automatically isolate or remain isolated upon receipt of an isolation signal. The primary function of the containment system and containment isolation valves is to limit the release of radioactive material, and thereby limit the radiological consequences of accidents to within the limits set by 10 CFR Part 100. The containment and components necessary to maintain the containment provide a margin of safety to protect the public and environment from radioactive releases following a Design Basis Accident (DBA). In order to accomplish this function, containment isolation valves must meet specified leakage rates and closing times, and be periodically tested to assure that the specified rates and times are met. The HPCI torus suction valves are safety-related valves that are required to isolate or remain isolated upon receipt of an isolation signal. These valves perform safety functions which are important to the operation of the HPCI

system and are not relied upon to perform a containment isolation function.

The discussions provided in Sections 1 and 2 above on the various changes demonstrate that the proposed amendment is bounded by the Pilgrim DBA. The changes will not result in the violation of containment integrity. These proposed changes involve additions and deletions of valves listed on Table 3.7.1 are due to plant modifications, changes in the normal valve line-up, reduced valve operating times, and editorial changes for clarity and consistency. BECo has performed safety evaluations for all changes in accordance with 10 CFR 50.59 and determined that no unreviewed safety questions exist.

The staff has reviewed the licensee's analysis and agrees with it. Therefore, we conclude that the proposed amendment satisfied the three criteria listed in 10 CFR 50.92. Based on that conclusion the staff proposes to make a no significant hazards consideration determination.

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 application for amendment: May 22, 1987.

Description of amendment request: By letter dated March 27, 1984 the licensee consolidated and refined previous submittals of July 11, 1983; September 12, 1983; October 13, 1983; November 16, 1983; and December 28, 1983, which proposed amendments to revise the Fire Protection Technical Specifications to reflect changes made to the station in accordance with the requirements of Appendix R to 10 CFR Part 50 and National Fire Protection Association (NFPA) Standards. This request was noticed on May 23, 1984 (49 FR 21826). Subsequent to corrections contained in the Licensee's letter dated June 11, 1984, Amendment No. 76 dealing with fire barriers was issued on August 22, 1984; noticed on September 28, 1984 (49 FR 38415). Further changes relating specifically to the Halon System in the cable spreading room were described by Licensee letters dated August 9, 1984 and October 29, 1984. After a separate prenotice on September 28, 1984 (49 FR 38396) Amendment No. 84 was issued on

November 27, 1984; noticed on December 31, 1984 (49 FR 50832).

By letter dated May 22, 1987 supplemented by letter dated July 28, 1987 the Licensee provided proposed Technical Specification changes reflecting changes to the Pilgrim Nuclear Power Station in accordance with Appendix R to 10 CFR Part 50 and National Fire Protection Association Standards. These changes include and complement those proposed in the March 27, 1984 letter but not yet approved by the NRC. They cover:

- (1) Fire Detection Instrumentation Section 3/4.12A
- (2) Fire Water Supply System Section 3/4.12B
- (3) Spray and/or Sprinkler System Section 3/4.12C
- (4) Fire Hose Stations Section 3/4.12E and H
- (5) Alternate Shutdown Panels Section 3/4.12G

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a Licensee requests an amendment it must provide to the Commission its analysis, using the standards in 10 CFR 50.92, about the issue of no significant hazards consideration. Accordingly, the Licensee has provided a safety analysis which is summarized below:

1. *Fire Detection Instrumentation Section 3/4.12A*

The proposed changes address the fire detection instrumentation added as a result of more restrictive NRC requirements than those presently included in the Technical Specifications. They increase the minimum number of operable instruments from 50 to 160 and impose the further requirement that no more than two adjacent detectors shall be out of service.

2. *Fire Water Supply System Section 3/4.12B*

The proposed changes:

- (a) correct vague wording regarding flow paths
- (b) upgrade surveillance/test requirements in Section 4.12.B.1.b to meet National Fire Protection Association (NFPA) requirements
- (c) revise subsection 4.12.B.2.b to meet revised ASTM standards pertaining to diesel fuel inspection and
- (d) Combine, renumber or otherwise modify surveillance requirements in subsection 4.12.B.

3. *Spray and/or Sprinkler System Section 3/4.12C*

The proposed changes involve the addition of four new wet pipe sprinkler systems to meet the more restrictive requirements of Appendix R. In addition they propose deletion of the Standby Gas Treatment System (SGTS) Spray System from the Technical Specifications. The SGTS Spray System originally provided capability to achieve decay heat removal from the charcoal filters. However, when the equipment was installed as an atmospheric cleanup system an additional cooling method was provided by a cross connection air cooling feature. The air cooling system will prevent unacceptable decay heat building. Moreover, even before the addition of air cooling, the water spray was not credited in the original PRPS FSAR (Section 10.8) as a fire protection system for the SGTS. Instead, the fire protection was in the form of general plant fire protection features which included (1) control of ignition sources, (2) limited combustible materials, (3) portable fire extinguishers, (4) local hose reels, and (5) an on-site fire brigade. None of these features have been altered or removed as a result of the proposed amendment.

4. Fire Hose Stations Sections 3/4.12E and H

The proposed changes cover the addition of new fire hose stations, renumbering of hose stations and elimination of reference to temporary yard stations. They also cover a change to protect backup fire hoses from damage by deleting the requirement that they be connected and deployed vs. stored in protective enclosures. In addition, they cover correction of references and section numbers.

5. Alternate Shutdown Panels Section 3/4 12.G

These changes simplify testing requirements and combine the requirements for testing from "Alternate Shutdown Panels" into a separate Section (3.12G) bearing that name.

The Commission has provided guidance for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards consideration. Two of these examples are:

(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature, and

(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the

technical specifications: for example, a more stringent surveillance requirement.

After a review of the proposed changes and the licensee's safety analysis the staff has made the following preliminary determinations:

1. Fire Detection Instrumentation

The changes impose more restrictive requirements and are thus similar to example (ii), above.

2. Fire Water Supply System

The changes are both administrative in making organization and editorial changes and impose additional restriction or control by upgrading requirements to more recent National Standards. Thus they are similar to both examples (i) and (ii).

3. Spray and/or Sprinkler System

With the exception of the deletion of the water spray on the SGTS charcoal filters, the changes impose more restrictive requirements and are thus similar to example (ii). As described above, the charcoal filters have been provided with air cooling. Additionally, the water spray was never considered to be part of the Safety System. Therefore removal of the Spray System will not result in a significant reduction in the margin of safety, create the possibility of a new or different kind of accident or involve a significant increase in the probability or consequences of an accident.

4. Fire Hose Stations

The addition of new fire hose stations and deletion of yard stations which were replaced by the new interior stations, followed by renumbering of the hose stations are similar to both examples (i) and (ii). The staff has reached the preliminary conclusion that storing the backup fire bases in protective enclosures will result in an improvement in safety. Therefore that change will not result in a significant reduction in the margin of safety, create the possibility of a new or different kind of accident or involve a significant increase in the probability or consequences of an accident.

5. Alternate Shutdown Panels

This change is purely administrative in reorganizing the statement of requirements in the Technical Specifications and is similar to example (i).

Based on the above, the staff has concluded that no significant hazards consideration exists.

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 application for amendment: July 8, 1987.

Description of amendment request: The proposed amendment would revise Technical Specification 4.5.A.3.d to explicitly specify low pressure coolant injection (LPCI) pump performance necessary to comply with the current loss-of-coolant accident (LOCA) analysis for the Pilgrim Station.

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.

1. The current Pilgrim Technical Specification 4.5.A.3.d requires three LPCI pumps to deliver 14,400 gpm against a system head corresponding to a vessel pressure of 20 psig. The proposed change does not reduce the LPCI pump capacity requirements. It restates the requirements in clearer language commonly used for specifying pump capacity. The pump capacity required by the proposed Technical Specification ensures pump performance necessary to comply with Pilgrim's LOCA analysis. Therefore, this change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change restates the LPCI pump requirements in clearer language. It assures that pump capacity complies with that required by the Pilgrim LOCA analysis; hence operating Pilgrim in accordance with this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The current Technical Specification 4.5.A.3.d contributes to the margin of safety by assuring that LPCI pumps can generate sufficient flow to prevent Peak Cladding Temperatures (PCT) from rising such that the fuel cladding degrades (acceptance PCT is 2200°F). The proposed change restates the pump capacity, but does not change the

capacity from that used in Pilgrim's LOCA analysis. Therefore, the margin of safety assured by 4.5.A.3.d is unchanged, and operating Pilgrim in accordance with the change will not involve a significant reduction in the margin of safety.

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: 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, North Carolina Eastern Municipal Power Agency, Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: June 12, 1987

Description of amendment request: The amendment would delete Figure 6.2, "Offsite Organization," and Figure 6.2-2, "Unit Organization," from the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of 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 Carolina Power & Light Company (CP&L) reviewed the proposed change and determined, and the NRC staff agrees, that:

(1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because deletion of the organization charts from the Technical Specifications does not affect plant operation. As in the past, the NRC will continue to be informed of

organizational changes through other required controls. In accordance with 10 CFR 50.34(b)(6)(i) the applicant's organizational structure is required to be included in the Final Safety Analysis Report. Chapter 13 of the Final Safety Analysis Report provides a description of the organization and detailed organization charts. As required by 10 CFR 50.71(e), CP&L submits annual updates to the FSAR. Appendix B to 10 CFR Part 50 and 10 CFR 50.54(a)(3) govern changes to organization described in the Quality Assurance Program. Some of these organizational changes require prior NRC approval. Also, it is CP&L's practice to inform the NRC of organizational changes affecting the nuclear facilities prior to implementation.

(2) The proposed amendment does not create the possibility of a new or different kind of accident than previously evaluated because the proposed change is administrative in nature, and no physical alterations of plant configuration or changes to setpoints or operating parameters are proposed.

(3) The proposed amendment does not involve a significant reduction in a margin of safety because CP&L, through its Quality Assurance programs, its commitment to maintain only qualified personnel in positions of responsibility, and other required controls, assures that safety functions will be performed at a high level of competence. Therefore, removal of the organization chart from the Technical Specifications will not affect the margin of safety.

Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Richard B. Harrison Library, 1313 New Bern Avenue, Raleigh, North Carolina 27610

Attorney for licensees: Thomas A. Baxter, Esq.; Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket No. STN 50-456, Braidwood Station, Unit No. 1, Will County, Illinois; and Docket No. STN 50-455 Byron Station, Unit No. 2, Ogle County, Illinois

Date of application for amendments: August 7, 1987

Description of amendments request: The amendment would revise Technical Specification 4.8.1.1.2f to extend, on a one-time basis, the frequency for performing certain diesel generator surveillance tests for an additional 13

months from the specified 18 months. This would allow such tests to be performed during the refueling outages of Braidwood Station Unit 1 and Byron Station Unit 2. The current Technical Specification includes the phrase "...18 months, during shutdown ...". This wording implies that the surveillance tests were intended to be performed during a refueling outage shutdown. The refueling outage for Braidwood Unit 1 is scheduled for May 1989; the refueling outage for Byron Unit 2 is scheduled for January 1989. Commonwealth Edison Company has stated that Braidwood and Byron Stations do not intend to use any of the 25% extension permitted by Technical Specification 4.0.2 if this amendment is approved, since this could result in scheduling concerns for subsequent fuel cycles. It is the staff's intention to apply this amendment, if it is found acceptable, to Braidwood Station Unit 2, when it receives its operating license.

Basis for Proposed No Significant Hazards Consideration Determination:

The staff has evaluated this proposed amendment and has determined that it involves no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: T

- (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or
- (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or
- (3) Involve a significant reduction in a margin of safety.

This proposed amendment involves the frequency of surveillance tests to prove diesel generator availability. Previously evaluated accidents which involve a loss of offsite power are the only accidents which depend on diesel generator availability. The probability of other accidents concurrent with a loss of offsite power are not affected by this diesel generator surveillance frequency.

The consequences of previously evaluated accidents would not be significantly increased because the diesel generator availability would not be significantly decreased. The previously established preventive maintenance programs at each station are sufficient to detect up to 95% of the potential failure modes that would be detectable during the performance of the deferred surveillances. The remaining 5% of the potential failure modes are mostly related to a mechanical wear type of failure. Because the operation

time of the diesel generators is small, these kinds of failures have a small probability of occurring. This information provides confidence that the diesels will be capable of performing their intended function, resulting in no significant increase in the consequences of an accident previously evaluated.

The change does not add or modify any existing equipment, nor introduce a new mode of plant operation. The operability of the diesel generators will continue to be verified by performing the other related Technical Specification required surveillances, which remain unchanged. As such, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

Commonwealth Edison Company indicated that the proposed change had been discussed with the diesel generator manufacturer and that they found the change to be acceptable. Deferral of the surveillance will not significantly increase the possibility of undetected degradation of the diesel generators because they are operated infrequently for short periods of time. Since the actual operation time of the diesel generator is small, the probability of a diesel generator failure due to mechanical wear is small. Commonwealth Edison Company reviewed the failure history for the diesel generator and did not find any trends identifying abnormal failures. The limiting conditions for operation and other surveillance requirements to verify operability are unchanged and will remain in effect. The monthly and quarterly diesel generator surveillances will continue to be performed during the surveillance interval extension, as well as the previously indicated preventive maintenance programs. As such, the margin of safety is not reduced.

Therefore, based upon the above analysis, the staff concludes that the proposed amendment to the Technical Specifications does not involve significant hazards considerations.

Local Public Document Room location: For Byron Station the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103; for Braidwood Station the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael Miller, Isham, Lincoln and Beale, One First National Plaza, 42nd Floor, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois; and Docket No. STN 50-456, Braidwood Station, Unit No. 1, Will County, Illinois

Date of application for amendments: July 28, 1987, as amended August 10, 1987

Description of amendments request: The amendment would revise Technical Specifications 3.8.1.1 and 4.8.1.1.2 to clarify how the gradual loading of the diesel engine is applied to minimize the mechanical stress and wear on the diesel generator. The proposed change clarifies that all surveillance tests may be preceded by warmup procedures and, with the exception of the one performed once per 184 days, may also include gradual loading as recommended by the manufacturer. It is the staff's intention to apply this amendment, if it is found acceptable, to Braidwood Station, Unit 2 when it receives its operating license.

The amendment would also remove some interim notes in Specifications 3.8.1.1 and 4.8.1.1.2 for Byron Station which were only needed for the first two years after the issuance of the operating license for Byron Unit 1. Since this time period has elapsed, these notes can now be deleted for Byron Station.

Basis for proposed no significant hazards consideration determination:

The staff has evaluated this proposed amendment and has determined that it involves no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not:

- (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or
- (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or
- (3) Involve a significant reduction in a margin of safety.

The proposed amendment does not increase the probability or consequences of an accident previously evaluated. The proposed amendment is administrative in nature. Clarifying the note regarding diesel engine start does not alter the type or intent of surveillance being performed to demonstrate diesel generator operability. The intent of Surveillance Requirement 4.8.1.1.2.1.5 is to load the diesel generator gradually for the monthly starts and only verify the diesel generator is loaded to 5500kw in less than or equal to 60 seconds for the 184 day starts. This note had been

previously added to provide flexibility in the routine diesel generator start requirements so that mechanical stress and wear on the diesel generator could be minimized. This method or approach should result in enhanced reliability when the diesel generators are actually needed to respond to an accident. Also the deleting of Technical Specification notes that are no longer necessary for Byron Station does not impact on any accident analysis results.

The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated because the revisions do not alter the surveillances or operability requirements for the diesel generators currently in the Technical Specifications. The changes are of an administrative type and do not affect any accident analysis.

The note regarding diesel generator start requirements was previously added based on guidance from Generic Letter 84-15. The purpose of this note was to enhance the reliability of the diesel generators by not performing testing which would unnecessarily degrade the performance of the diesel generators. Therefore, clarifying the wording of this note and removing notes that are no longer applicable will not affect the margin of safety.

Therefore, based upon the previous analysis, the staff concludes that the proposed amendment to the Technical Specifications does not involve significant hazards considerations.

Local Public Document Room location: For Byron Station the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103; for Braidwood Station the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael Miller, Isham, Lincoln and Beale, One First National Plaza, 42nd Floor, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Unit Nos. 1 and 2, LaSalle County, Illinois

Date of amendment request: June 16, 1987

Description of amendment request: The proposed amendment to Operating License Nos. NPF-11 and NPF-18 would allow the storage of fuel from each unit in either pool as originally intended with the connected fuel pool design. This capability would extend the time (number of cycles) for which it will be possible to accomplish unloading of all

the core fuel assemblies when required for maintenance. In addition, this change will minimize radiation exposure during installation of the high density fuel racks if they are licensed for use at LaSalle.

Presently, only spent fuel from Unit 1 may be stored in the Unit 1 fuel pool, and only spent fuel from Unit 2 may be stored in the Unit 2 fuel pool. This is in accordance with section 2.B.5 of the present licenses which state, "Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility." The word "facility" is defined as the unit for which that license is applicable.

Spent fuel storage space at LaSalle is supplied in the spent fuel pool for each unit, with each pool capable of storing 1120 fuel assemblies (Technical Specification 5.6.3). The spent fuel pools are connected via the transfer pools (canals) and the cask well vault, thus allowing underwater transfer of spent fuel from one pool to another with no significant safety consequence.

The proposed Unit 1 and Unit 2 licensee amendments modify the following:

- Section 2.B.5 of Facility Operating License NPF-11 is proposed to be revised such that the word "facility" will be deleted and the words "LaSalle County Station Units 1 and 2" be inserted.

- Section 2.B.5 of Facility Operating License NPF-18 is proposed to be revised such that the word "facility" will be deleted and the words "LaSalle County Station Units 1 and 2" be inserted.

At the present time, the Unit 1 and Unit 2 fuel assemblies have essentially the same mechanical design, enrichments, and burnup histories. Consequently, the design bases as described in the Updated FSAR Subsection 9.1.2 and Technical Specification Section 5.6, are not compromised by the storage of spent fuel from one unit in the spent fuel pool storage racks of the other unit. For each future fuel design, the peak reactivity of the fuel assemblies will be evaluated prior to their placement in the spent fuel pool. Compatibility of the fuel in both spent fuel pools will be verified at that time. This will ensure that the new fuel design will meet storage requirement design bases as described in the Updated FSAR and Technical Specifications.

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 Tprobability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the NRC staff agrees, that the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the configuration and operation of the plant will remain essentially the same. The designs of the two fuel pools and the associated operating and accident analysis assumptions are not changed by these amendments. Fuel assemblies discharged from the Units 1 and 2 reactors have essentially the same mechanical design, enrichments, and burnup histories. Fuel assemblies being used at LaSalle County Station are analyzed for storage in both fuel pools prior to their placement in the fuel pools.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because this change does not modify the configuration or operation of the plant. Transfer of fuel assemblies from one fuel pool to the other is performed with the fuel handling platform utilizing the main fuel grapple or the auxiliary fuel hoist, and does not require defeating any fuel handling interlocks. Transfer of fuel assemblies from a fuel pool to the transfer canal and the cask well vault is discussed in the Updated FSAR, Subsection 9.1.2. Potential fuel handling accidents are also evaluated in the Updated TFSAR, Section 15.7. Consequently, the handling and transport of the spent fuel are enveloped by previous analyses.

(3) Involve a significant reduction in the margin of safety because Keff will be maintained below 0.95 and the Updated FSAR accident analyses results bound the evolutions that would be necessary in transferring spent fuel from one fuel pool to the other.

Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

Local Public Document Room Location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Attorney for licensee: Isham, Lincoln and Beale, Suite 840, 1120 Connecticut Avenue, NW., Washington, DC 20036.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company,
Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Lake County, Illinois

Date of application for amendments: May 29, 1987

Description of amendments request: The purpose of this proposed change is threefold:

1. This change is intended to reflect the STS Format.

2. This proposed amendment will allow increased flexibility during low temperature operations to permit simultaneous charging pump operation for a short time duration during pump switchover operations.

3. The allowable time period of depressurizing the reactor coolant system (RCS) following the failure of two PORVs will be reduced.

ITEM 1. Section 3.4.9.3 of the STS identifies two methods for low temperature over pressure protection.

A. Two power operated release valves (PORV) must be operable, or

B. The RCS is to be depressurized with an open vent path

Both the current Zion Technical Specifications and the proposed amendment include the above two options, with the substitution of an open PORV for the specified RCS vent. In addition, the proposed amendment includes the option to permit RCS pressure to be reduced to less than 100 psig concurrent with pressurizer level less than 25%.

All three methods discussed above currently exist in the Zion Technical Specifications. The bases for these methods are contained on page 94 of the existing Technical Specifications. Thus, this proposed amendment does not explicitly involve the approval of new low temperature over pressure protection methods.

ITEM 2. The proposed amendment has included the restrictions on charging pump, safety injection pump, and accumulator operation. These restrictions are unchanged from the existing Zion Technical Specification.

However, the flexibility to allow two charging pumps to operate for short periods of time for the purpose of maintaining seal injection flow to the reactor coolant pumps has been added. The purpose of this clause is to maintain the cleaner seal injection flow to the RCP seals during charging pump realignment. This will prevent the

backflow of RCS water through the TRCS seals when the seal injection flow has been interrupted which will help prevent RCP seal failure.

ITEM 3. The action statement for STS Section 3.4.9.3 requires that the RCS be vented within 8 hours following the inoperability of one PORV for greater than 7 days or the inoperability of two PORV's. The proposed amendment incorporates 24 hours and 16 hours, respectively, for venting the RCS subsequent to the above conditions.

These time periods reflect Zion Stations belief that it is difficult to depressurize the RCS in a controlled manner in 8 hours. The initial conditions for such an operation would include a steam bubble within the pressurizer. Thus the 24 hour limit, which exists within the current Zion Technical Specifications, represents a reasonable time frame in which to depressurize the RCS event the failure of only one PORV.

However, Zion Station recognizes that the inoperability of two PORV's is a more serious situation and that every attempt should be made to depressurize the RCS in a controlled manner as rapidly as possible. Therefore, a 16 hour time period is proposed as the minimum amount of time in which the depressurization could proceed in a controlled manner. This 16 hour time period is more restrictive than the 24 hours allowed by the existing Zion Technical Specifications.

ITEM 4. The STS incorporates the requirement for the performance of ASME boiler and pressure code surveillances in the PORV technical specification in Specification 3.3.2.E. Therefore, they are not repeated in this proposed amendment.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following discussion regarding the above three criteria:

Criterion 1

An amendment to the Zion Facility Operating License is proposed to:

(a) Incorporate the format and guidance of NUREG-0452, Rev. 4.

(b) Allow simultaneous charging pump operation for a short time duration while low temperature conditions exist and pump switchover operations are in progress.

(c) Reduce the allowable time period for depressurizing the RCS following the failure of two PORV's.

The incorporation of the guidance contained in the Standard Technical Specification NUREG-0452, Rev. 4, provides needed clarification and guidance to Sections 3.3.2.G and 4.3.2.G of the Zion Technical Specifications. The incorporation of the STS's guidance constitute expanded and clarified constraints on the operation of Zion Station. The reduction of the allowed Ttime period for RCS depressurization following the failure of two PORV's constitutes a more conservative restriction on Zion's operation.

The inclusion of the flexibility to allow two operating charging pumps during pump switchover operations will increase the reliability of Zion's RCPs. If the injection of filtered water is interrupted, then RCS water backs up into the seal region of the RCP. Minute amounts of debris in this water can cause damage to the seals on an operating RCP. This would result in the need for an RCS depressurization for RCP seal repair. Thus, the maintenance of active seal injection eliminates the introduction of the debris-laden RCS water and promotes more reliable operation of the RCPs.

The charging pump switchover operation occurs quickly. The simultaneous operation of two charging pumps is not expected to last more than approximately five minutes. Thus, the total time of dual pump operation is negligible and is consistent with the pre-existing intent of the limitations on pump operations. In addition, this operation is required to be performed by a licensed reactor operator.

Since changes (a) and (c) above both represent more conservative and clarified requirements on the operation of Zion Station, there can be no adverse effect on the performance of any Zion system or structure. In addition, change (b) will provide for more reliable RCP operation while involving a negligible amount of dual pump operation.

Based upon the above information, the proposed amendment will not adversely affect the safety performance of any Zion system or structure and will have no effect on any previously evaluated accident.

Therefore, this proposed amendment does not involve a significant increase

in the probability of or consequences of any accident previously evaluated.

Criterion 2

The incorporation of the three changes discussed above will have no adverse effect on any of Zion's systems or structures. There will be no change in the normal operation of Zion's low temperature overpressure protection system. Thus, there can be no potential for any previously unanalyzed malfunction or component failure.

The low temperature overpressure protection system is intended to protect the RCS from pressure transients below 250°F. These transients include the effects of inappropriate operation of charging pumps and RCPs. These accident sequences have been reviewed and based on the lack of system interaction discussed above, the proposed amendment of the Zion Technical Specifications will not affect any of these pre-existing accident sequences.

Thus, this proposed amendment does not create the possibility of a new or different kind of accident from those previously evaluated.

Criterion 3

The three changes discussed above will not affect the safety function of the low temperature overpressurization system. The low temperature overpressurization system will remain available to perform the intended safety function.

Since the low temperature overpressurization system's ability to effectively protect the RCS from pressure transients below 250°F will be unaltered by this proposed change, there will be no change in the margin of safety.

This proposed change involves the expansion and clarification of the affected sections, the reduction of allowed action time periods, and a clarification of a pre-existing requirement. Thus, examples (i) and (ii) are applicable in this instance.

Examples (i) and (ii) read as follows:

(i) A purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specification, correction of an error, or a change in nomenclature.

(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specification: for example, a more stringent surveillance requirement.

Therefore, since the application for amendment satisfies the criteria specified in 10 CFR 50.92 and is similar to examples for which no significant hazards consideration exists,

Commonwealth Edison Company has made a determination that the application involves no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specification involve no significant hazards consideration.

Local Public Document Room:
Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085

Attorney to licensee: P. Steptoe, Esq., Isham, Lincoln and Beale, Counselors at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602.

NRC Project Director: Daniel R. Muller

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: June 1, 1987 as modified by July 22, 1987

Description of amendment request:
The proposed license amendment involves two extensive modifications to the existing plant technical specifications (TS). The first major effort concerns a revision to the technical specifications to reflect an upgraded design basis analysis of transients at the Haddam Neck Plant for operation during Cycle 15. This revision was originally started as an upgrade to the existing design basis analyses and was expanded to include additional analyses of transients not previously evaluated as part of the licensing bases. The new upgraded transient analyses have been performed with bounding physics design values required to assure the continued safe operation of the Haddam Neck Plant during Cycle 15 operation.

The second major effort involves a major change in the format of the Cycle 15 technical specifications. As part of the licensee's program of converting the Haddam Neck Plant custom technical specifications to the Westinghouse standard technical specification (STS), the licensee has submitted some Cycle 15 specific technical specifications in the STS format. In many cases, this format change has resulted in additional surveillance requirements or action statements beyond those that had existed in the plant custom technical specifications.

In general, the license amendment would delete old technical specifications 3.15, "Reactivity Anomalies," 3.16, "Isothermal Coefficient of Reactivity," 3.18, "Power Distribution Monitoring

and Control," and 3.20, "Reactor Coolant System Flow, Temperature and Pressure." The information contained in those specifications would be reorganized along with additional limiting conditions of operation, action statements and surveillance requirements into revised Technical Specifications 3.3, "Reactor Coolant System Operational Components," 3.10, "Reactivity Control" and 3.17, "Limiting Linear Heat Generation Rate," as required, to assure completeness with the previous existing technical specification. One new specification (3.24) would be added to formalize the special test exceptions required to perform various startup physics tests.

During the reformatting of the above specifications, additional limiting conditions of operation actions statements and surveillance requirements have been added and are consistent with the guidance of the Westinghouse STS.

In addition, existing technical specifications in sections 1.0, "Definitions," 2.2, "Safety Limits," 2.4, "Maximum Safety Settings - Protective Instrumentation," 3.11, "Containment," 3.13, "Refueling," 3.5, "Chemical and Volume Control System," 3.7, "Minimum Water Volume and Boron Concentration in the Refueling Water Storage Tank," and 4.9, "Main Steam Isolation Valves" would be revised to account for the revised safety analyses design basis in support of the safe operation of the Haddam Neck Plant for Cycle 15.

More specifically, the licensee is proposing to modify current specifications 1.0, 2.2 and 2.4 to account for changes in the minimum reactor coolant flow rates and the methodology calculating shutdown margin and other Cycle 15 physics parameters. In addition, surveillance requirements for the Startup Rate reactor trip have been added to specification 2.4 to assure the assumptions used in the safety analyses are preserved.

Proposed specification 3.3 has been reformatted and replaces in entirety the current specification 3.3. However the licensee has proposed to delete current specifications 3.3.C.2, 3.3.C.3, 3.3.C.5 and 3.3.H. Proposed deletion of specifications 3.3.C.2, 3.3.C.3 and 3.3.C.5 are necessary because operation in the configurations permitted by the above specifications could not be supported by existing safety analyses. Specification 3.3.H required a onetime natural circulation cooldown test in 1981. Since this test was satisfactorily completed, the licensee is proposing to delete this requirement. In addition to the deletions proposed, the licensee has also proposed adding additional limiting

conditions of operation, action statements and surveillance requirements consistent with the guidance found in the Westinghouse STS.

The licensee proposes to modify specifications 3.5, 3.7, 3.11 and 3.13 to incorporate the revised requirements for shutdown margin as described in Section 1.0 of the technical specifications.

The licensee proposes to modify specification 3.9 to include a new startup rate trip as well as two additional changes in set point logic based upon the safety analyses submitted in support of Cycle 15 operation.

Proposed specification 3.10 has been reformatted and replaces in entirety existing specifications 3.10, 3.15 and 3.16. In addition, the licensee proposes to delete existing specifications 3.10.B and 3.10.C. The proposed deletion of 3.10.B and 3.10.C are based on the Westinghouse methodology used in evaluating the Cycle 15 transients which no longer require technical specifications on ejected rod worth. The proposed deletion of specification 3.10.F.3 is also required to assure that only one rod position indicator is inoperable hence preserving the assumption of a single rod stuck out of the core which was used in evaluating specific Cycle 15 transients.

In addition to the deletions identified above, the licensee also has proposed additional limiting conditions of operation, action statements and surveillance requirements consistent with the guidance found in the Westinghouse STS.

Proposed specification 3.17 has been reformatted and replaces in entirety current specifications 3.17, 3.18 and 3.20. In addition, proposed specifications 3.17 includes a new requirement for radial power peaking factors as well as an existing requirement for quadrant power tilt previously contained in specification 2.4. The licensee also proposes to delete existing specifications 3.18.B.1.2 and 3.18.C.2. The existing specifications reflect practices employed prior to Cycle 6 operation but which have become obsolete in more frequent cycles. In addition to the deletions identified above, the licensee also has proposed additional limiting conditions of operation, action statements and surveillance requirements consistent with the guidance found in the Westinghouse STS. The licensee also proposes to revise the axial four loop RCS inlet temperature to be consistent with the design basis safety analysis.

Proposed specification 3.24 is a new specification which formalizes exceptions to the requirements of the technical specifications to perform various low-power start-up physics tests currently required in existing specifications.

The proposed revision to specification 4.9 is to require that the total closure time for steam isolation valves is within 10 seconds instead of the current requirement of each valve being closed in 10 seconds. This change is consistent with the design basis of the Haddam Neck Plant.

No significant changes have been made in the acceptance criteria for the technical specifications. In those cases where modification of the technical specifications was required specifically for operation during Cycle 15, the staff has reviewed the analyses and the analytical methods and has found them to be acceptable.

The following table provides a direct comparison of the existing plant technical specifications and the new reformatted (proposed) technical specifications.

COMPARISON OF CURRENT HADDAM NECK TECHNICAL SPECIFICATIONS TO THE PROPOSED REFORMATTED STANDARD TECHNICAL SPECIFICATION SECTIONS FOR CYCLE 15 OPERATION AT THE HADDAM NECK PLANT

Current Technical Specification	Proposed Cycle 15 Technical Specification
3.3 - Section	
3.3.A	3.3.2.1 3.3.2.2
3.3.B	3.3.1.2 Action Statement C 3.3.1.3 Action Statement B 3.3.1.4.1 Action Statement B 3.3.1.4.2
3.3.C (1)	3.3.2.2 3.3.2 BASES
3.3.C (2)	(deleted)
3.3.C (3)	(deleted)
3.3.C (4)	3.3.1.1 Action Statement A
3.3.C (5)	(deleted)
3.3.C (6)	3.3.4.1
3.3.C (6)(a)	3.3.4.1 Action Statement A
3.3.C (6)(b)	3.3.4.1 Action Statement B 3.3.4.1 Action Statement A
3.3.C (7)	3.3.3 Action Statement A 3.3.3 Action Statement B
3.3.C (7)(a)	3.3.3 Action Statement B
3.3.C (7)(b)	3.3.3
3.3.D	3.3.1.3 3.3.1.4.1
3.3.E	3.3.4.2
3.3.E (1)	3.3.4.2 Action Statement A
3.3.E (2)	3.3.4.2 Action Statement B
3.3.E (3)	3.3.4.2 Action Statement C
3.3.F (1)	3.3.1.2
3.3.F (2)	3.3.1.2
3.3.F (2)(a)	3.3.1.2 Action Statement A
3.3.F (2)(b)	3.3.1.2 Action Statement C
3.3.G (1)	3.3.1.3
3.3.G (2)	3.3.1.4.1 3.3.1.4.2
3.3.G(2)(a)	3.3.1.3 Action Statement A 3.3.1.4.1 Action Statement A 3.3.1.4.2 Action Statement A
3.3.G(2)(b)	3.3.1.3 Action Statement B 3.3.1.4.1 Action Statement B 3.3.1.4.2 Action Statement B
3.3.H	(deleted)

COMPARISON OF CURRENT HADDAM NECK TECHNICAL SPECIFICATIONS TO THE PROPOSED REFORMATTED STANDARD TECHNICAL SPECIFICATION SECTIONS FOR CYCLE 15 OPERATION AT THE HADDAM NECK PLANT—Continued

Current Technical Specification	Proposed Cycle 15 Technical Specification
Section 3.10	
3.10.A	3.10.2.6 3.10.2.7 3.24.2 (deleted)
3.10.B	(deleted)
3.10.C	(deleted)
3.10.D (i)	3.10.1.2 3.10.1.3 3.10.1.2 Action Statement 3.10.1.3 Action Statement
3.10.D (ii)	3.10.2.6 3.10.2.7
3.10.D (ii)(1)	3.10.2.6 Action Statement A 3.10.2.7 Action Statement A
3.10.D (ii)(2)	3.10.2.6 Action Statement B 3.10.2.7 Action Statement B
3.10.D (ii)(3)	3.10.2.6 Action Statement C 3.10.2.7 Action Statement C
3.10.E	3.10.2.1 3.10.2.1 Action Statement
3.10.F	3.10.2.2 3.10.2.2 Action Statement
3.10.G	3.10.2.3
3.10.H	3.10.2.4 3.10.2.4 Action Statement 3.10.2.4 Surveillance Req.
3.10.I	3.10.2.5 3.10.2.5 Action Statement 3.10.2.5 Surveillance Req.
Section 3.15	3.10.1.1 3.10.1.4 3.10.1.1 Surveillance Req. 3.10.1.4 Surveillance Req.
Section 3.16	3.10.1.5
Section 3.17	
3.17.A	3.17.2.1
3.17.C	3.17.2.1 3.17.2.1 Surveillance Req. 3.17.2.2 3.17.2.2 Surveillance Req. 3.17.2.2
3.17.D	3.17.2.1
Section 3.18	3.17.2.1 3.17.2.1 Surveillance Req.
3.18.A	3.17.1.1 3.17.1.2 3.17.1.1 Surveillance Req. 3.17.1.2 Surveillance Req.
3.18.B.1.1.a	3.17.1.1 Action Statement 3.17.1.2 Action Statement
3.18.B.1.1.b	3.17.1.1 3.17.1.2 Surveillance Req.
3.18.B.1.1.c	(deleted)
3.18.B.1.2	3.17.5.a 3.17.5.b 3.17.5.c
3.18.C.1	3.17.5 3.17.5 Action Statement 3.17.5 Surveillance Req.
3.18.C.2	(deleted)
Section 3.20	
3.20.A	3.17.5.a
3.20.B	3.17.5.b
3.20.C	3.17.5.c
3.20.D	3.17.5 Surveillance Req.
3.20.E	3.17.5 Action Statement
3.20.E	3.17.5 Surveillance Req.

Basis for proposed no significant hazards consideration determination:
The Commission has provided standards for determining whether a significant hazards consideration exists (51 FR 7751, March 6, 1986). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a

significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed changes and has determined that they do not constitute an unreviewed safety question. The licensee also has provided extensive information (attachment 3 to their application) in support of a conclusion that the proposed changes do not involve a significant hazards consideration. Specifically, the licensee concluded that:

(1) The proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated because the plant response to the LOCA and non-LOCA transients has not been significantly altered by the proposed changes. More specifically, while the axial offset limits will be changed, they continue to assure that the initial conditions for the LOCA are maintained such that linear heat generation rate (LHGR) limits are not exceeded and that the axial power shapes are within the non-LOCA transient design basis. The limiting LHGRs are unchanged and assure that the LOCA peak cladding temperature (PCT) is less than 2300°F. New specifications have been incorporated to limit the radial power peak to a value less than the original design basis for departure from nucleate boiling (DNB) transients and the core safety limits. The minimum departure from nucleate boiling ratio (MDNBR) for the non-LOCA transients remains greater than 1.30.

The inlet temperature, pressurizer pressure, and reactor coolant system (RCS) flow rate also affect DNB and PCT. The pressure limits are unchanged. The minimum RCS flow rate is being reduced and the minimum T_{cold} increased, but the OCA and non-LOCA transients continue to meet appropriate acceptance criteria (i.e., PCT less than or equal to 2300°F, MDNBR less than or equal to 1.3, and centerline fuel Temperature less than or equal to melt limit) without significantly modifying plant and performance.

The plant response to the boron dilution accident with the shutdown margin requirement in all operational modes continues to provide sufficient operator response time. The three-loop operation core physics parameters were generated using the less restrictive control bank insertion limits. The design

accidents are not significantly affected by these changes.

(2) The proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not affect the performance of safety system or the probability of a failure of a safety system. There are no new failure modes associated with the proposed changes to the Technical Specification requirements. Additionally, there is no increase in the probability of an accident due to the proposed changes or a failure mode associated with the change, such that an accident previously thought incredible should be considered within the design basis, and

(3) The proposed amendment does not involve a significant reduction in a margin of safety because (1) there is no impact on the cladding protective boundary since the MDNBR remains above 1.3, (2) the operator has sufficient time to respond to a boron dilution accident, (3) the peak cladding temperature remains less than 2300°F, and (4) the fuel centerline temperature is less than the melt limit. The changes proposed do not significantly affect system response, so other protective boundaries are not impacted. The proposed specifications do not affect the safety limits of the protective boundaries.

In addition to the technical issues associated with operation during Cycle 15 (as discussed above), the conversion of the present TS to the STS format can be categorized into either administrative changes or additional requirements not currently found in the plant specifications.

As mentioned earlier, the Commission has provided examples of amendments that are likely to involve no significant hazards consideration (51 FR 7751, March 6, 1986). Example (i) involves a purely administrative change to the technical specifications such as a change in nomenclature or correction of an error. The staff has reviewed the proposed amendment and concluded that those specifications which involve only a reformatting of or administrative changes to the existing specification are enveloped by this example.

Example (ii) involves a change that constitutes an additional limitation, restriction or control not presently included in the technical specifications. The staff has reviewed the proposed amendment and concluded that the proposed incorporation of additional limiting conditions of operation as well as new action statements and surveillance requirements are enveloped by this example because they constitute

additional restrictions on plant operation which are not currently in the plant technical specifications.

On the basis of the above examples and the licensee's determination that the license amendment involves no significant hazards consideration, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: Cecil O. Thomas

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: July 29, 1987

Description of amendment request: The proposed license amendment would add a new technical specification (TS) section, Section 3.25 "Feedwater Isolation Valves," to the existing plant technical specifications. The accident analysis for a main steam line break in containment assumes the main feedwater isolation valves close within 70 seconds. Addition of this technical specification will assure that surveillance testing is performed to verify the 70 second closure time is maintained.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance (51 FR 7751, March 6, 1986) on actions not likely to involve a significant hazards consideration. Example (ii) of this guidance states that a change that constitutes an additional limitation restriction or control not presently included in the technical specifications, for example, a more stringent surveillance requirement, would not likely constitute a significant hazard. The staff has reviewed the proposed amendment and concluded that it falls within the envelope of example (ii) because the proposed amendment adds a new surveillance requirement to assure that assumptions used in the plant safety analyses are maintained.

Accordingly, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard,

Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: Cecil O. Thomas

Consolidated Edison Company of New York, Inc. Docket No. 50-03, Indian Point Unit No. 1, Buchanan, New York

Date of amendment request: December 19, 1985 as revised July 27, 1987.

Description of amendment request: The licensee proposes that License No. DPR-5 for the shutdown and defueled Indian Point Unit No. 1 (IP-1) be amended to revise the Technical Specifications (TS) to assure that IP-1 requirements for the Radiological Protection Program are consistent with IP-2 requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation and/or maintenance of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes with respect to 10 CFR 50.92(c) and has determined that the proposed amendment would not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change does not entail any physical changes in plant equipment. The proposed change involves a revision to the site personnel access control requirements for IP-1 radiation areas in which the intensity of radiation is greater than 100 mrem/hr but less than 1000 mrem/hr. Thus, it does not in any way affect the dose consequences of offsite releases. The proposed change remains conservative based on consistency with NRC approved Standard Technical Specification (STS). The proposed revision would also help to reduce site radiation exposure and minimize the confusion of workers who have to comply with two different procedures in IP-1 and IP-2.

(2) create the probability of a new or different kind of accident from any previously evaluated, since the proposed change would not alter the

configuration of any of the plant's equipment and remains conservative in providing assurance of maintaining adequate radiation protection for site personnel.

(3) involve a significant reduction in a margin of safety, since the proposed change remains conservative for controlling access to high radiation areas. The proposed change involves revisions to the IP-1 access control requirements for radiation areas in which the intensity of radiation is greater than 100 mrem/hr but less than 1000 mrem/hr. These areas will be barricaded and conspicuously posted as high radiation areas and entry will be controlled by the issuance of a Radiation Work Permit (RWP). In addition, a radiation monitoring device which continuously indicates the radiation dose rate in the area will be provided to the individuals who are permitted to enter such areas. These requirements provide a conservative measure of radiation protection for site workers based on consistency with the NRC approved STS. The proposed change will also reduce radiation exposure by eliminating the need for a guard to be posted at the entrance of the area and will minimize the confusion of workers who have to comply with two different sets of procedures in IP-1 and IP-2.

Based on the above, the licensee has determined that the proposed amendment does not involve a significant hazards consideration. The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Maritime Avenue, White Plains, New York 10601

Attorney for licensee: Brent L. Brandenburg, Esquire, Consolidated Edison Company of New York, Inc., 4 Irving Place, New York, New York 10003
NRC Project Director: Herbert N. Berkow

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: May 5, 1977, as modified February 16, 1984, July 18, 1986 and July 14, 1987.

Description of amendment request: The amendment would revise the Technical Specifications to reflect provisions consistent with the

appropriate Edition and Addenda of Section XI of the ASME Boiler and Pressure Vessel Code. Specifically the amendment would replace the inservice inspection requirements in Section 4.2 of the Technical Specifications with a commitment to perform an inservice inspection program as specified in 10 CFR 50.55a. The request for this amendment was initially noticed October 27, 1983 (48 FR 49713), renoticed May 23, 1984 (49 FR 21828) and September 10, 1986 (51 FR 32266).

The July 14, 1987 modification is responsive to NRC concerns identified during the review of the proposed amendment. Specifically, the modification revises the inservice inspection and testing sections to provide for compliance with 10 CFR 50.55a(g) "except where specific relief has been granted".

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for a no significant hazards determination by providing certain examples (51 FR 7751). One of these examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications. The proposed changes with regard to 10 CFR 50.55a are represented by this example. Therefore, based on the above, the staff proposes to determine that the proposed revision to the Technical Specifications involves no significant 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 Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendments request: April 18, 1987

Description of amendments request: The proposed amendments would delete the remaining sections, Sections 1.0 and 5.0, of the Turkey Point Plant Environmental Technical Specifications (ETS) and replace the ETS with an Environmental Protection Plan.

Section 1.0 includes the definitions for terms used in the ETS. Section 5.0 describes the administrative controls

and procedures necessary to implement the ETS requirements.

Recently issued amendments have deleted the non-radiological and radiological environmental monitoring programs and requirements from the ETS. Amendments 93/87, issued March 11, 1983, deleted the non-radiological water quality related requirements. Amendments 100/94, issued January 4, 1984, deleted the non-radiological monitoring programs related to terrestrial, biological, and physical monitoring. Amendments 105/99, issued August 24, 1984, deleted the groundwater monitoring requirements and other environmental protection limits. Environmental concerns which relate to water quality and biological monitoring will be regulated by the Environmental Protection Agency and other Federal, State and Local Environmental Agencies.

Also, Amendments 103/97, issued April 23, 1984, deleted the radiological environmental monitoring requirements from the ETS. These requirements are now included in the Turkey Point Plant Technical Specifications, Appendix A to Operating License Nos. DPR-31 and DPR-41.

The requirements of Sections 1.0 and 5.0 of the ETS which are still applicable will be included in the Turkey Point Plant Environmental Protection Plan, which would provide for the protection of the environment at the plant site and immediate adjacent areas.

Protection of the environment at the Turkey Point Plant and immediate adjacent areas will continue to be provided for by the Environmental Protection Plan which would replace the existing Appendix B Environmental Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change in accordance with the standards of 10 CFR 50.92 and has determined that operation of Turkey

Point Units 3 and 4 in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed amendments are administrative in that they replace administrative requirements in Appendix B with similar requirements in an Environmental Protection Plan. They do not change any current safety limitation related to operation of the plants. (Safety limits are necessary to reasonably protect the integrity of certain physical barriers which guard against the uncontrolled release of radioactivity). They do not modify any of the design features of the plant. The radiological monitoring programs included in the Appendix A Technical Specifications are not affected by these amendments.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

As stated above, the proposed amendments do not affect the design or operation of the plant, and therefore could not cause a new or different kind of accident from any previously evaluated to occur.

(3) Involve a significant reduction in a margin of safety.

The proposed amendments are not safety-related, pose no reduction in any requirement for safe operation of the plant and, therefore, could not affect any margin of safety. As discussed above, the radiological monitoring programs are not affected by these amendments.

The staff agrees with the licensee's determination above, and therefore proposes to determine that the amendments do not involve a significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Lester S. Rubenstein

Indiana and Michigan Electric Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: May 19, 1986 as revised July 16, 1987.

Description of amendments request: The proposed amendments would revise the Technical Specifications by adding requirements for the containment sump level and flow monitoring system for both units and by correcting a duplication of surveillance requirements on the reactor coolant leakage detection

system for Unit 1. The proposed amendment was originally noticed on June 18, 1986 (51 FR 22238).

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a no significant hazards determination by providing certain examples (51 FR 7751). One of the examples, (ii), is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The change to add requirements for the containment sump level and flow monitoring system for both units is directly related to this example. This system was required as part of the TTM Action Plan, NUREG-0737. Another example, (i), is a purely administrative change to the technical specifications. Surveillance Requirement 4.4.6.1 is now on page 3/4 4-14 for Unit 1 and is exactly repeated on page 3/4 4-15.

The removal of the duplication is purely administrative and directly related to the example. Therefore, the Commission proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David L. Wigginton, Acting.

Indiana and Michigan Electric Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: July 22, 1987

Description of amendments request: The proposed amendments would change the Technical Specifications for functional tests of snubbers by allowing an extension in test frequency from 18 to 24 months with a corresponding increase in the test sample from 10 to 14% of the snubbers. The proposed amendments also correct an editorial oversight on visual inspections to include percent signs on the frequency span.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the

facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The proposal by the licensee to increase the frequency and the number of snubbers to be tested from 18 months and 10% of the snubbers to 24 months and 14% of the snubbers is based on calculations to ensure that the confidence in snubber operability is maintained. If the confidence in operability remains unchanged, there should be no significant increase in the probabilities or consequences of any accident previously analyzed. Since there is no change to operations or modifications to the plant involved in the proposed change, there is no possibility of a new or different kind of accident from any previously evaluated. The confidence in operability does not change, therefore there is no significant reduction in a margin of safety.

The Commission has provided guidance concerning the determination of significant hazards by providing certain examples (51 FR 7751) of amendments considered not likely to involve a significant hazards determination. The first example, (i), is a purely administrative change to technical specifications. The editorial change to replace percent signs is directly related to this example.

Based on the above considerations, the staff proposes to determine that the licensee's request involves no significant hazards considerations.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David L. Wigginton, Acting.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: July 30, 1987.

Description of amendment request: The proposed amendment would modify the Technical Specifications to reflect revised LOCA Monitoring Limits which could be used when the Incore Monitoring System is inoperable.

Maine Yankee Atomic Power Company uses the Incore Monitoring

System to monitor the LOCA Linear Heat Generation Rate (LHGR) Limits. If the incore alarms become inoperable, power operation can be continued as allowed by Technical Specification 3.10.C.3.1.1. This specification places limits on control element assembly (CEA) position and axial symmetric offset, and based on these restrictions,

penalizes the last incore LHGR measurement for potential power peaking increases and establishes a maximum allowable power level for operation. The following conditions must be met:

- CEA's are maintained above the 100% power insertion limit.

- Excure symmetric offset remains with ± 0.05 of the value measured when the last core readings were taken.
- Core power is reduced to less than or equal to P (% of rated power), where P is given by:

$$P = 0.85 \times R$$
 where R is the minimum ratio of

(Linear Heat Rate Permitted by Specification 3.10.C.1 x 100)

(Latest Measured Peak Linear Heat Rate Corrected to 100% Power)

The intent of this specification is to permit continued operation based on the latest measured LOCA LHGR margin to limits. The penalty factor of 0.85 accounts for the maximum possible loss in margin due to peaking increase that could result from operation within the restricted CEA and symmetric offset limits. The analysis used in the determination of the Reactor Protection System setpoints forms the basis of this penalty factor, which is evaluated each cycle.

The proposed specification separates this combined penalty factor into CEA and symmetric offset components and expresses the penalty as a function of CEA movement relative to the CEA position at the time of the measurement. In addition, the proposed specification defines two symmetric offset ranges to cover the most likely conditions of core operation. The actual LOCA LHGR Limits specified in Technical Specification 3.10.C.1, which are determined using an approved ECCS Evaluation Model and meet the criteria established in 10 CFR 50.46 and 10 CFR Part 50, Appendix K, remain the same.

Basis for proposed no significant hazards consideration: The proposed changes to the Technical Specifications for revised LOCA Monitoring Limits when the Incore Monitoring System is Inoperable for the Maine Yankee plant have been evaluated against the standards of 10 CFR 50.92 and have been determined to not involve a significant hazards consideration. These proposed changes do not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

Operation of the plant at the revised LOCA Monitoring Limit when the Incore Monitoring System is Inoperable does not increase the probability of a LOCA. Furthermore, Maine Yankee has evaluated operation of the plant during

Cycle 10 for Non-LOCA events and has established Non-LOCA Limits independent of LOCA Limits. The imposition of a LOCA Monitoring Limit when the Incore Monitoring System is Inoperable further restricts operation and does not affect Non-LOCA events. Therefore, the proposed changes do not increase the probability of an accident previously evaluated.

The LOCA Limits specified in Technical Specification 3.10.C.1 are determined using methods found to be in compliance with 10 CFR 50.46 and 10 CFR Part 50 Appendix K. These regulations established the criteria which assure that the consequences of LOCA's are acceptable. The revised LOCA Monitoring Limits when the Incore Monitoring System is Inoperable assures adequate margin exists to the LOCA LHGR Limits in Technical Specification 3.10.C.1. Therefore, operation of the plant at the revised LOCA Monitoring Limit when the Incore Monitoring System is Inoperable does not significantly increase the consequences of LOCAs. Furthermore, operation with the revised limits does not increase the consequences of Non-LOCA events for the reason stated in the previous paragraph. Therefore, the proposed changes do not increase the consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change revises the LOCA Monitoring Limit when the Incore Monitoring System is Inoperable. Operating within the revised limits assures adequate margin exists to the LOCA LHGR Limits specified in Technical Specification 3.10.C.1. These limits meet the criteria of 10 CFR Part 50, Appendix K.

Furthermore, operation with the

revised LOCA Limits for Non-LOCA events does not create the possibility of a new or different kind of accident for the reason stated in Item 1. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety.

The LOCA Limits were specified in Technical Specification 3.10.C.1 are determined using methods found to be in compliance with 10 CFR 50.46 and 10 CFR Part 50 Appendix K. These regulations establish the criteria which assure that adequate margin of safety exists for LOCAs. The revised LOCA Monitoring Limits when the Incore Monitoring System is Inoperable assures adequate margin exists to the LOCA LHGR Limits in Technical Specification 3.10.C.1. Furthermore, operation with the revised limits does not reduce a margin of safety for Non-LOCA events for the reason stated in Item 1. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Maine Yankee has concluded that the proposed changes to Technical Specifications do not involve a significant hazards consideration as defined by 10 CFR 50.92. We have reviewed the licensee's analysis and have agreed with it. Accordingly, the Commission proposes to determine that this change does not involve a significant hazard.

Local Public Document Room location: Wiscasset Public Library, High Street, P. O. Box 367, Wiscasset, Maine 04578.

Attorney for licensee: J. A. Ritscher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Project Director: V. Nerses, Acting Director

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: July 1, 1987, as revised August 4, 1987

Description of amendment request: The proposed amendment would change Paragraph 2.C.(36) in the Grand Gulf Nuclear Station, Unit 1 Operating License NPF-29. This license condition requires completion of the emergency response capabilities as identified in Attachment 1 to the license. Items (c)(2) and (c)(3) of Attachment 1 would be changed by deleting the requirement for post-accident flow monitoring of the standby liquid control system (SLCS) and deferring the implementation date for post-accident neutron flux monitoring from the second refueling outage to the third refueling outage.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided an analysis of significant hazards consideration in its request for a license amendment. The licensee has concluded with appropriate bases, that the proposed amendment satisfies the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations. The licensee's analysis is reproduced below.

SLCS Flow Monitoring

Standard 1.

Deletion of the requirement to install SLCS flow monitoring does not involve a significant increase in the probability or consequences of an accident previously evaluated. The SLCS is an alternate reactor shutdown system to be used in an ATWS event when the control rods do not fully insert. Since SLCS functions (post accident) to mitigate the consequences of an ATWS event, not having the SLCS flow instrumentation does not alter the probability of occurrence of this event.

Using an alternate means to detect SLCS flow does not increase the consequences of an accident previously evaluated in the FSAR. SLCS flow monitoring would provide a direct indication that the SLCS pumps are injecting poison into the reactor; however,

other parameters can be monitored to confirm SLCS injection. These alternate indications (i.e., SLCS storage tank level, SLCS tank outlet valve position) have been shown to meet the requirements of R.G. 1.97, are of high reliability, and can provide indirect TSLCS flow indication in the unlikely event that it is needed to mitigate an ATWS. The steps utilized by the reactor operators in the Emergency Procedure Guidelines assume use of presently installed instrumentation and have been approved by the NRC as appropriate to mitigate the consequences of an ATWS event. Since the presence or absence of direct flow indication does not affect SLCS performance, the consequences of an accident previously evaluated are not increased by not installing direct SLCS flow monitoring.

Standard 2

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated. The only analyzed event requiring the use of the SLCS is an ATWS. Other valid methods are presently available to provide indirect SLCS flow monitoring during an ATWS event. The SLCS will still perform its design function whether or not SLCS flow monitoring is installed; therefore, the possibility of a new or different kind of accident is not created.

Standard 3

Using an alternate means of SLCS flow monitoring does not involve a reduction in a margin of safety. The safety function of SLCS flow monitoring is satisfied by use of alternate methods of assessing SLCS flow. This alternate method has been previously accepted by the NRC as being a valid method of confirming SLCS flow and an acceptable method of meeting the requirements of R.G. 1.97 for SLCS flow monitoring. Therefore, deletion of the requirement to install SLCS flow monitoring does not reduce the margin of safety.

Neutron Flux Monitoring

Standard 1

The absence of a post accident neutron monitoring system during the third fuel cycle does not involve a significant increase in the probability of an accident previously evaluated since the absence of the proposed system modification would not affect reactor operation. The post accident neutron flux monitoring system provides post-accident indication of reactor power and does not provide any signals to actuate engineered safety features or to trip the reactor. Furthermore, reactor trip signals from the present neutron flux monitoring system to the reactor protection system will not be changed as a result of the installation of a post accident neutron monitoring system.

Several factors were considered in determining if the consequences of an accident previously evaluated have been significantly increased as a result of the proposed delay in installation of the post accident neutron flux monitoring system. If the new system were installed during the second refueling outage, it would provide improvements over the presently installed system. However, the presently installed system is expected to function during the initial phase of an accident (including a LOCA) to indicate subcritical reactor power.

Since the presently installed system is not qualified to R.G. 1.97 Category 1 requirements, long term monitoring in a harsh environment may not be directly available. In this event, other measures and indications can provide the operator with reactor power information as discussed below:

a. The presently installed neutron flux monitoring system has 8 channels of Average Power Range Monitors, 6 channels of Source Range Monitors and 8 channels of Intermediate Range Monitors some of which may survive a harsh accident environment.

b. The present control rod position indication system provides the reactor operator with information that all rods are inserted. The control rod position indication instrumentation meets Category 3 requirements per R.G. 1.97.

c. Qualified instrumentation such as reactor pressure and safety relief valve (SRV) actuation provide the reactor operator with post-accident information for assessment of reactor power if direct neutron monitoring capability was not available.

d. GGNS has implemented Revision 3 of the Emergency Procedure Guidelines (EPG's). The EPG's are symptom based and provide appropriate conservative actions if reactor power could not be directly measured in a post-accident situation. The EPG's contain action steps which mitigate the symptomatic effects of design basis events (such as LOCA, rod drop, HELB's) and beyond design basis events (such as ATWS).

The compensatory measures listed above ensure that the consequences of an accident previously evaluated will not be significantly increased by the absence of a post accident neutron flux monitoring system during the third fuel cycle.

Standard 2

The absence of a post accident neutron flux monitoring system during the third fuel cycle does not create the possibility of a new or different kind of accident from any previously evaluated because the new system will perform only a mitigative role in an accident.

Standard 3

The absence of a post accident neutron flux monitoring system during the third fuel cycle does not result in a significant reduction in the margin of safety. The installation of the neutron flux monitoring system at the third refueling outage will provide an enhancement over the present system for post accident monitoring capability. However, even with the proposed system not available, other instrumentation and the GGNS EPs assure that conservative actions are taken and margins of safety are (based on the EPGs) not significantly reduced.

The NRC staff has made a preliminary review of the licensee's analysis and agrees with the licensee's conclusions that the three standards in 10 CFR 50.92 are met for the proposed operating license amendment for Grand Gulf Nuclear Station, Unit 1.

Accordingly, the Commission proposes to determine that the requested changes to the operating

license do not involve a significant hazards consideration.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036
NRC Project Director: Lester S. Rubenstein

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: July 14, 1987 as supplemented by letter dated July 31, 1987 (partial response).

Description of amendment request: By application for license amendment dated July 14, 1987 as supplemented by letter dated July 31, 1987, Northeast Nuclear Energy Company, et al. (the licensee), requested changes to the Technical Specifications (TS) for Millstone Unit 2 as follows: (1) a new TS 6.9.1.5d, "Annual Reports", would require reporting of pressurizer relief valve and safety valve (RV & SV) failures and challenges and (2) a new TS 6.17, "Secondary Water Chemistry", would specify requirements for the steam generator secondary water chemistry program.

In addition to the TS changes described above, the July 14, 1987 application also requests a change to the TS regarding steam generator tube degradation which will be addressed in a future licensing action.

Basis for proposed no significant hazards consideration determination: By letter dated July 23, 1979, the NRC staff informed licensees that a review of steam generator water chemistry status within the nuclear industry indicated a need for a license condition to specify the nature of the plant-specific water chemistry programs. More recently, the NRC staff has requested that the licensee's propose inclusion of water chemistry program requirements in the Administrative Controls section of the TS. The July 14, 1987 application proposes a change to the Administrative Controls section of the TS to incorporate secondary water chemistry requirements in accordance with the NRC letter dated July 23, 1979 as follows:

1. Identification of a sampling schedule for the critical variables and control points for these variables.

2. Identification of the procedures used to measure the values of the critical variables,

3. Identification of process sampling points, which shall include monitoring the discharge of the condensate pumps for evidence of condenser in-leakage.

4. Procedures for the recording and management of data,

5. Procedures defining corrective actions for all off-control point chemistry conditions, and

6. A procedure identifying: (a) the authority responsible for the interpretation of the data, and (b) the sequence and timing of administrative events required to initiate corrective action.

The above program would be incorporated in new, proposed, TS 6.17.

The other change to the TS, addressed herein, concerns TMI Action Item II.K.3.3, "Reporting of RV and SV Failures and Challenges." In an NRC letter dated March 8, 1982, the NRC staff expressed the need to formalize the reporting of pressurizer RV and SV failures and challenges via a change to the TS. No model TS was provided at that time. In a subsequent NRC letter dated October 29, 1986, the licensee was provided with an acceptable model TS. The July 1, 1987 application, as supplemented by the licensee's letter dated July 31, 1987, proposes an addition to the annual reporting requirements of TS 6.9.1.5 to include: "Documentation of all failures (inability to lift or reclose within the tolerances allowed by the design basis) and challenges to the pressurizer PORVs or safety valves."

On March 6, 1986, the NRC published guidance in the *Federal Register* (51 FR 7751) concerning examples of amendments that are not likely to involve a significant hazards consideration. One example of amendments not likely to involve significant hazards considerations is example (ii) which involves "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement." Both the water chemistry requirements of proposed TS 6.17 and the reporting of RV and SV failures and challenges of proposed TS 6.9.1.5d represent controls that are not presently included in the TS. Accordingly, the Commission proposes to determine that the proposed change to the TS involves no significant hazards considerations.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: August 3, 1987

Description of amendment request: By application for license amendment dated August 3, 1987, Northeast Nuclear Energy Company, et al. (the licensee), requested changes to the Technical Specifications (TS) for Millstone Unit 2 regarding Control Room inleakage. The licensee has proposed a new TS 4.7.6.1e.3 which would require periodic verification of control room inleakage.

Basis for proposed no significant hazards consideration determination: On July 19, 1982, the NRC staff issued its Safety Evaluation (SE) concerning TMI Action Item III.D.3.4, "Control Room Habitability". The SE approved control room HVAC modifications proposed by the licensee, as described in the licensee's letter dated July 1, 1981, which included increasing the capability of the control room charcoal filtration system and reducing the control room unfiltered inleakage. Subsequently, on June 19, 1985, the NRC staff issued License Amendment No. 100 for Millstone Unit 2 which included TS consistent with the staff's July 19, 1982 SE. The SE associated with License Amendment No. 100, however, concluded, "...the technical specification contains no provisions to periodically verify the licensee's calculational assumptions regarding the control room inleakage during isolation. The staff will pursue resolution of this prior to the next refueling outage currently scheduled for late 1986 or early 1987." Following discussions with the NRC staff, the licensee submitted their application dated August 3, 1987. The TS proposed by the licensee (TS 4.7.6.1e.3) would require measurement of the control room inleakage at least once per 18 months. The maximum allowable inleakage would be 100 scfm at a delta P of 1/16 in. water gauge.

On March 6, 1986, the NRC published guidance in the *Federal Register* (51 FR 7751) concerning examples of amendments that are not likely to involve a significant hazards consideration. One example of amendments not likely to involve significant hazards considerations is example (ii) which involves "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement." Proposed TS 4.7.6.1e.3 represents an additional "control" not

presently included in the TS. Accordingly, the TCommission proposes to determine that the proposed change to the TS involves no significant hazards considerations.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Project Director: John F. Stolz

Pennsylvania Power and Light Company, Docket No. 50-388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: June 30, 1987

Description of amendment request: The licensee has proposed changes to Susquehanna Steam Electric Station (SSES) Unit 2 Technical Specifications, to permit extended operation of the Unit with one recirculation loop out of service. The single loop operation (SLO) was previously approved by the Commission on April 11, 1986 in Amendment No. 26 to SSES Unit 2 Technical Specifications. Subsequent to that approval, the licensee voluntarily requested the Commission to terminate the SLO provision from the Unit 2 Technical Specifications, pending completion of additional analyses. The analyses have now been completed, reviewed and adopted by the licensee as the basis for its current request to reinstate the approval of SLO operation at SSES, Unit 2.

Specifically, the licensee has requested the following Technical Specification changes:

- A Footnote, which was inadvertently deleted by a previous amendment, will be restored to Table 3.3.6-2.
- In Technical Specification section 3.4.1.1.2, the recirculation pump speed is restricted to 80% to reflect the results of jet pump vibration analysis for SLO.
- In the Technical Specification section 3.4.1.1.2, proper multipliers for Maximum Average Planar Linear Heat Generation Rates (MAPLHGR) for General Electric (GE) fuel and ANF fuel have been proposed for SLO. The proposed changes are based on Loss Of Coolant Accident (LOCA) analyses.
- In the Technical Specification section 3.4.1.1.2, new Minimum Critical Power Ratio (MCPR) values have been proposed for SLO. The new values are based on transient analyses.

Basis for proposed no significant hazards consideration determination:

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and concurs with the following basis and conclusions provided by the licensee in its June 30, 1987 submittal.

The following three questions will be addressed for each of the proposed changes:

I. Does the proposed change involve a significant increase in the Tprobability or consequences of an accident previously evaluated?

II. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

III. Does the proposed change involve a significant reduction in a margin of safety?

● *Table 3.3.6-2, Control Rod Block Instrumentation Setpoints*

I. No. Footnote "u" is provided as a reference for the trip functions in this table which have revised trip setpoints and allowable values during SLO. This change applies this setpoint to the APRM Flow Biased Neutron Flux - Upscale trip. This change is administrative in nature since the revised setpoint and allowable value were previously approved as part of the original SLO Specification (reference Amendment 26 to License NPF-22), but footnote u on the subject trip function was inadvertently omitted as part of the amendment.

II. No. See I above.

III. No. See I above.

● *Specification 3.4.1.1.2, Recirculation Loops - Single Loop Operation*

I. No. The revision to 80% recirculation pump speed is a restriction due to gaps discovered on the jet pump restrainer bracket. The new limit is based on a GE jet pump vibration analysis which was previously referenced for Susquehanna SES Unit 1.

Specification a.3 is revised to provide the proper MAPLHGR Tmultipliers for GE and ANF fuel. The GE multiplier is 0.81 based on the previously approved analysis in support of Amendment 26.

LOCA analyses performed by ANF ...indicate that the two loop MAPLHGR limits are applicable to SLO for ANF fuel, and therefore the multiplier has been set to 1.0.

New Specification a.5 proposes new MCPR limits for SLO based on transient analyses performed by ANF ...for events initiated from SLO conditions. These analyses show that the Safety Limit MCPR must be increased to 1.07 and the Operating Limit MCPR must be increased to a minimum of 1.42 for Single Loop Operation. A 0.01 constant is added to the two loop Operating Limit MCPR for low power and low core flow conditions for Single Loop Operating Limit MCPR values greater than 1.42.

Based on the addition of the new MCPR limits, the current Specification a.5 is revised to a.6. Under this listing of RMB/APRM Control Rod Block Setpoints, two lines of text are deleted. This change is editorial in that the test applies to setpoints that were deleted in approved Amendment 31 to License NPF-22, and therefore this information should have been deleted at that time.

Based on the above analyses of the non-editorial changes to Specification 3.4.1.1.2, appropriate limits have been proposed to assure that operation with one recirculation loop out of service will not result in a significant increase in Tthe probability or consequences of any accident previously evaluated. The editorial changes have no impact on previous analyses.

II. No. The 80% pump speed restriction ensures that jet pump vibration greater than normally expected will not occur during SLO, thereby eliminating it as a contributor to any new accident scenario. The revised MAPLHGR and MCPR limits have been developed based on approved LOCA and transient analysis methods and therefore will not create any new accident. The deleted text is editorial as explained in I above.

III. No. The analyses for jet pump vibration, LOCA, and other anticipated operational occurrences ensure that no significant reduction in safety margin has occurred based on their inputs, applied conservatisms and calculation methodologies as documented in the previously referenced reports. The editorial changes have no safety impact.

In addition to concurrence with the above licensee basis and its conclusions, the staff also finds that the addition of a footnote to Table 3.3.6-2 entails a correction of an error and therefore is similar to Commission's example (i) (51 FR 7751) of an amendment likely to involve no significant hazards consideration.

Based on the above considerations, the Commission proposes to determine that the proposed changes involve a no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: Walter R. Butler

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: May 20, 1987

Description of amendment request: The proposed amendment would eliminate the Condensate Storage Tank (CST) as vital equipment and therefore revise the level of security protection provided to the CST.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (ii) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) Involve a significant reduction in a margin of safety.

The licensee has provided the following no significant hazards analysis:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident?

The proposed change does not involve a significant increase in the probability or consequences of an accident since there is no change to any plant system or operating procedure. This change merely revises the level of security protection provided to the CST, a nonsafety-related component. Loss of the CST would not prevent the auxiliary feedwater (AFW) system from performing its function of decay heat removal since the service water (SW) system remains available as a water source. As a Seismic Category II portion of the condensate and feedwater system, the CST is not essential for safe shutdown of the plant.

2. Does the proposed license change create the possibility of a new or different kind of accident from any accident previously analyzed?

The proposed change does not create the possibility of a new or different kind of accident from any accident previously analyzed since the plant design and operating procedures remain unaffected. This change only addresses security measures associated with a nonsafety-related component. Loss of the CST has been considered in the design of the AFW system by providing a Seismic Category I, safety-related backup system consisting of two separate, redundant trains.

3. Does the proposed license change involve a significant reduction in a margin of safety?

The proposed change does not involve a significant reduction in a margin of safety since no change is made to the plant design or operating procedure. The CST is not essential to the safe shutdown of the plant.

The staff has reviewed the licensee's no significant hazards analysis and concurs with their conclusions. As such, the staff proposes to determine that the requested change does not involve a significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 731 S. W. Harrison Street, Portland Oregon 97207

Attorney for licensee: J. W. Durham, Senior Vice President, Portland General Electric Company, 121 S. W. Salmon Street, Portland, Oregon 97204

NRC Project Director: George W. Knighton

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: July 14, 1987

Description of amendment request: The amendment would revise Technical Specification 4.1.5.b.2 for the standby liquid control (SLC) system by increasing the required amount of sodium pentaborate from 5760 pounds to 5776 pounds and would revise Technical Specification Figure 3.1.5-1 to increase the minimum sodium pentaborate solution concentration requirements from 12.9 weight percent to 13.6 weight percent and to change the low level and high level alarm levels from volumes of 4690 and 4997 gallons to 4640 and 4880 gallons respectively. These changes are necessary in order for Hope Creek Generating Station (HCGS) to maintain compliance to 10 CFR 50.62(c)(4) with a minimum flow capacity and boron equivalent in control capacity to 86 gallons per minute (gpm) of 13 weight percent (13 w/o) sodium pentaborate solution.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following evaluation with its July 17, 1987 amendment request:

The proposed change to the HCGS Technical Specifications:

(i) Does not involve a significant increase in the probability or consequences of an accident previously evaluated. This change does not affect the ability of sodium pentaborate to reach the core nor the capability of boron to absorb neutrons; hence, the design intent of the SLC system is not affected. This change increases the ability of the SLC system to shutdown the reactor during an ATWS event since more sodium pentaborate will be available to absorb neutrons.

The proposed change increases the minimum allowable boron concentration by increasing the amount of sodium pentaborate in the SLC storage tank by 16 pounds (less than 0.3 percent) and reducing the SLC tank low level by 210 gallons (approximately 4%). As a result of these changes, the sodium pentaborate solution saturation temperature increases to 62°F from 59°F (approximately 5%). However, as shown in revised FSAR Section 9.3.5 and Figure 9.3-9 (see Attachment 3), the increased saturation temperature is still less than the temperature maintained by the electrical heater system which maintains the SLC tank solution between 75°F and 85°F. The performance of Technical Specification Surveillance Requirements 4.1.5.a.1 and a.3, on a daily basis, assures that the SLC system heat tracing and SLC tank electrical heater system maintains system temperature at greater than or equal to 70°F. Additionally, the areas in which the SLC system is located are maintained at temperature of at least 70°F. Therefore, the proposed change does not significantly increase the possibility of the sodium pentaborate coming out of solution.

Hence, the proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

(ii) Does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not alter SLC system operation nor affect any other system, including the ability of the plant to recover from accident conditions. Therefore, it can be concluded that the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(iii) Does not involve a significant reduction in a margin of safety. The proposed change increases the ability of the SLC system to respond to ATWS events by increasing the amount of sodium pentaborate which is available to safely bring the reactor to a shutdown condition. Although as discussed in subparagraph (i) above, the saturation temperature of sodium pentaborate is increased, this increase is not significant especially in light of the fact that the electrical heater system maintains solution temperature with a margin of approximately 21%. Additionally, the Technical Specifications maintain a margin of approximately 13%. The changes to the actual Technical Specifications are conservative in nature and hence, the proposed change does not significantly reduce a margin of safety.

Finally, this amendment request conforms to Example (ii) for Amendments That Are Not Likely To Involve Significant Hazards Considerations (published in Federal Register Vol 51, No. 44 dated March 6, 1986) in that this change constitutes an additional limitation not presently included in the Technical Specifications. In addition, based upon the discussions provided in the above three subparagraphs, PSE&G concludes that the proposed change does not involve a Significant Hazards Consideration.

The staff agrees with the licensee's evaluation and conclusion as stated above. Accordingly, the staff proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Pennsville Public library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: September 22, 1986, as supplemented February 20, 1987

Description of amendment request: The proposed amendment consists of two parts. The first is a proposed revision to the definition of Refueling Interval in Technical Specification 1.2.8 which removes reference to the first refueling interval and makes the language consistent with Standard Technical Specifications. The actual specified time period of the Refueling Interval - 18 months - is unchanged. The second proposed change would grant a waiver from surveillance of the Reactor Vessel Internal Vent Valves (RVVV) until the cycle 8 refueling outage, which is scheduled to begin in May 1989. Section 4.1.2 and 1.9 of the current Technical Specifications require surveillance of the RVVV to be completed prior to restart from the current outage, which began on December 26, 1985. The last surveillance was in April 1985. This proposed change would provide a one-time increase in the time between consecutive surveillances.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The evaluation of the proposed changes relative to these standards follows:

(1) The proposed wording change to Technical Specification 1.2.8 is purely an administrative change which does not increase the probability or consequences of an accident previously evaluated. The proposed increase in time between surveillances of the RVVV will not increase the probability or consequences of an accident previously evaluated because the increased exposure of the RVVV to the reactor coolant system between surveillances will not increase significantly the probability of the valves failing to open during an accident. This is because (a)

the valves are passive type swing check valves held closed by the relatively small pressure drop through the reactor vessel and are not prone to sticking at the seat/disc interface; and (b) the valve parts are made of materials not susceptible to significant rates of corrosion while exposed to reactor coolant conditions experienced during shutdown and power operation.

(2) Neither the proposed wording change to technical specification 1.2.8 nor the increase in time between surveillances of the RVVV create the possibility of a new or different kind of accident from any accident previously evaluated because neither change introduces new features into the design of the plant nor the way in which it is operated.

(3) The proposed wording change to technical specification 1.2.8 is purely an administrative change and therefore does not involve a significant reduction in the margin of safety. The proposed increase in time between surveillances of the RVVV will not involve a significant reduction in the margin of safety because the increased exposure of the RVVV to the reactor coolant system between surveillances will not increase significantly the probability of the valves failing to open during an accident. This is because (a) the valves are passive type swing check valves held closed by the relatively small pressure drop through the reactor vessel and they are not prone to sticking at the seat/disc interface; and (b), the valve parts are made of materials not susceptible to significant rates of corrosion during exposure to the reactor coolant conditions experienced during shutdown and power operation.

On the basis of the above considerations, the Commission proposes to determine that the proposed changes involves no significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P. O. Box 15830, Sacramento, California 95813

NRC Project Director: George W. Knighton

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: December 12, 1986

Description of amendment request: The amendment request identifies three

proposed changes to the Rancho Seco Technical Specification for surveillance testing of the Reactor Building Purge Exhaust Filter System (i.e., Technical Specification 4.11.1). The changes are as follows:

(1) Reduction in the specified air flow rate in Technical Specification 4.11.1A from 66,700 cfm \pm 10% to 60,000 cfm \pm 10% during conditions of containment integrity. The flow reduction resulted when the purge valve stroke was reduced to conform to the manufacturer's recommendation.

(2) Incorporation of Technical Specification 4.11.1D.2(b), which requires verification that the HEPA filter banks remove greater than or equal to 99.9% of the DOP when they are tested in-place in accordance with the ANSI Standard N510 while operating the filter train at a flow rate of 66,700 cfm \pm 10%. This specification, through oversight, was not included in a previous amendment.

(3) Provide clarification in the bases of the Technical Specification that the air flow rate through the reactor building purge valves is different with and without conditions of containment integrity.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves a 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 first and third proposed changes described above do not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because a reduction in purge flow would contain more airborne radioactivity inside containment during an accidental radioactive release and decrease exposure to the general public.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change does not create purge system failure modes not previously considered.

(3) Involve a significant reduction in margin of safety because the lower purge system flow rate tends to reduce the rate at which containment

atmosphere is released to the environment prior to containment isolation.

The Commission has also provided guidance (51 FR 7751) concerning the application of the standards for determining whether a significant hazards consideration exists. This guidance is provided in terms of certain examples of actions not likely to involve a significant hazard consideration. One example (ii) of an action not likely to involve a significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; for example, a more stringent surveillance requirement.

The second change to the Technical Specifications as described above, incorporates an additional filter surveillance which is not presently included in the Technical Specification; therefore, this proposed change is similar to example (ii) and we propose to determine that it does not involve a significant hazards consideration.

Local Public Document Room location: Sacramento CityCounty Library, 828 I Street, Sacramento, California 95814

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P. O. Box 15830, Sacramento, California 95813

NR Project Director: George W. Knighton

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: May 14, 1987

Description of amendment request: The amendment would revise the Technical Specifications (TS's) to provide for a modification that would change the Combustible Gas Control System in Rancho Seco Nuclear Generating Station from a system based on a redundant Hydrogen Purge System (with capability to install an external hydrogen recombiner) to a system using a redundant Internal Hydrogen Recombiner System as the means for controlling combustible gas concentrations in containment following a postulated Loss of Coolant Accident (LOCA).

Specifically, the amendment would change Specification 4.4.3, "Hydrogen Purge System," and add Specifications 3.29 and 4.33, "Hydrogen Recombiners," to be consistent with the "Standard Technical Specifications for Babcock and Wilcox Pressurized Water Reactors," NUREG-0103 (Rev. 4, Fall

1980) for atmospheric containments as applicable to Westinghouse Electric Hydrogen Recombiners. Conforming changes would be made to the Table of Contents.

Both the existing system and the Internal Hydrogen Recombiner System are in compliance with the regulatory requirements of 10 CFR 50.44, "Standards for Combustible Gas Control System in Light Water Cooled Power Reactors." Both systems are consistent with associated regulatory guidance:

Regulatory Guide 1.7 (Rev. 2, November 1978) and Safety Guide 7 (1971), as applicable.

General Design Criteria 41, 42, and 43 Standard Review Plan 6.2.5, as applicable.

The Combustible Gas Control System is not being changed for regulatory reasons, but is being changed due to considerations of operational reliability and maintainability. No changes are being made to the required capabilities for mixing or measuring combustible gases.

Basis for proposed no significant hazards consideration determination: The proposed changes have been reviewed against each of the criteria in 10 CFR 50.92, namely that the proposed changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

The proposed facility change from a redundant Hydrogen Purge System to a redundant Internal Hydrogen Recombiner System to control combustible hydrogen following an accident and the associated TS changes would in no way increase the probability or consequences of an accident previously evaluated. Installation of internal hydrogen recombiners improves hydrogen removal capability while minimizing the consequences of a postulated LOCA. The proposed system change would affect the type of equipment used to meet the regulatory requirement for control of combustible gas concentration in containment (10 CFR 50.44(b)(3)). The proposed system, consisting of hydrogen recombiners, is comprised of components which have been given a degree of regulatory preference. The proposed TS's would have no effect on the probability or consequences of an accident previously evaluated.

The proposed facility change and the associated changes in the TS's would

not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed hydrogen recombiners have been environmentally qualified, they are to be installed in locations which will ensure their effectiveness and no negative impact on other safety-related equipment, and they will be consistent with regulatory requirements relating to Combustible Gas Control Systems. The proposed TS's would not affect the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed facility modification and associated TS changes would not involve a significant reduction in a margin of safety. The proposed equipment change is from a type of system which allows controlled release of combustible gas from containment (10 CFR 50.44(h)(2)(i)) to a type of system that does not result in a release from containment (10 CFR 50.44(h)(2)(ii)). The recombiner system has been given regulatory preference because of its characteristic of not generating releases during a postulated LOCA. The recombiner system proposed to be installed has greater hydrogen removal capability than the current purge system, in the event that it should be used. Although both systems meet the regulatory requirements, the proposed system is an improvement on the system currently in place. The proposed TS's are equivalent to or more conservative than the existing TS's for the Hydrogen Purge System and thus do not involve a reduction in a margin of safety.

On these bases, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Sacramento City County Library, 828 I Street, Sacramento, California 95814

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P. O. Box 15830, Sacramento, California 95813

NRC Project Director: George W. Knighton

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: July 7, 1987

Description of amendment request: The proposed amendment is to Technical Specification (TS) Table 4.31, "Reactor Trip System Instrumentation Surveillance Requirements." The proposed change deletes notation 5 from

line item 5 (Intermediate Range, Neutron Flux) and line item 6 (Source Range, Neutron Flux). The proposed change also deletes reference to the Intermediate Range in line item 5 of the Table Notation.

By letter dated January 8, 1987, South Carolina Electric & Gas Company (SCE&G) requested an amendment to the Technical Specifications to support modifications necessary to meet Regulatory Guide 1.97, Revision 3, requirements for Post Accident Neutron Monitoring Instrumentation. Those modifications replaced the nonpost accident qualified source range BF3 detectors and Intermediate Range Compensated Ion Chamber detectors with Class 1E, post accident qualified fission chamber detectors, and were approved by the Nuclear Regulatory Commission by Amendment No. 65 to Operating License No. NPF-12 issued on April 14, 1987.

TS Table 4.31 line items 5 and 6 refer to detector plateau curves to be obtained once per refueling. Detector plateau curves are not applicable to fission chamber detectors.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has determined that the requested amendment: (1) would not involve a significant increase in the probability of consequences of an accident previously evaluated because the TS to be deleted do not apply to the plant configuration approved by Amendment No. 65 and (2) would not create the possibility of a new or different kind of accident from any accident previously evaluated because no physical plant changes are made by this amendment. Also, the amendment (3) would not involve a significant reduction in the margin of safety because detector plateau curves are not applicable to fission chamber detectors.

Accordingly, the Commission proposes to determine that these changes do not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

Southern California Edison Company, et al., Docket No. 50206, San Onofre Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: July 20, 1987

Description of amendment request: The proposed changes to the Technical Specifications would revise existing Section 4.2.1 Safety Injection and Containment Spray Periodic Testing, to incorporate requirements for hot functional testing of valves HV851 A and B into the existing periodic functional tests of the safety injection system. These valves must open in order to initiate safety injection in the event of a loss of coolant accident. The proposal would also make minor administrative and format changes to Specification 4.2.1 to renumber and reword certain existing sections for increased clarity. In addition, the proposed change would delete interim Technical Specification 4.2.3 which established a temporary testing program for valves HV851 A and B which expired in November 1985. This interim specification is no longer necessary since the important aspects of this test will be incorporated into the revised Section 4.2.1.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee's July 20, 1987 submittal states the following with respect to these three factors:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

This change will not significantly increase the probability or consequences of an accident previously evaluated.

The performance of this test will require the SIS to perform as if actually needed. All valves will sequence and the pumps will stop and/or stop and restart as required. The MOV 850 A, B and C valves will all open as part of this test whereas they were not required to open in the interim test. This change allows the SIS to remain in service during the test. This was not the case previously since when the MOV's are locked closed the SIS cannot deliver the necessary flow to the core should an actual event occur. Opening the MOV 850 A, B and C valves will not significantly increase the probability of an intersystem LOCA due to the check valves downstream of the MOV 850 A, B and C valves and the check valves at the discharge of the feedwater pumps. In any case, the advantage of having SI available during the test outweighs the small increase in the probability of an intersystem LOCA.

This proposed change will require an enhanced surveillance program to assure and confirm longterm system operability. One of the problems identified as causing the 1981 valve failures was longterm set of the valve seat faces. The interim 92 day interval hot SIS test was designed to provide, among other things, continuing assurance that the actuators had adequate margin to overcome the effect of longterm set. The results of the interim test program were summarized in Amendment Application No. 132 submitted by SCE letter dated November 20, 1985. The conclusion was that the actuators now have adequate margin to account for this phenomenon.

The proposed change provides a longterm program which will increase the time between tests and provide continuing assurance that the valves will perform their function under simulated conditions. Longterm set which may have occurred after 92 days will now be monitored for its effect after longer periods on the order of 9 months. The changes in the equation to determine testing frequency will require more frequent testing if actuator force is between 10,000 lbf and 22,000 lbf.

Elimination of the interim T.S., 4.2.3, is merely administrative in nature since the provisions of the specification expired at the refueling outage which began in November 1985.

Therefore, it is concluded that operation of the facility in accordance with this proposed change will not cause a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

This change modifies an existing surveillance requirement (T.S. 4.2.1) on the SIS to include a surveillance that was previously done at 92 day intervals. Since a similar test has previously been performed and since it is a surveillance test intended to assure system operability, no new accidents

will be created. The remaining changes are purely administrative and do not affect any type of accident. Therefore, it is concluded that operation of the facility in accordance with this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

The facility's margin of safety will not be decreased but will be increased by having increased and more rigorous surveillance of this safety system. No system setpoints or operating parameters are being changed. The negative effect of the increased surveillance will be increased maintenance and outage time, though this will be minimized due to the test being done as the unit is being shut down for a planned MODE 5 operation. The remaining changes are purely administrative and do not affect a margin of safety. Therefore, it is concluded that operation of the facility in accordance with this proposed change does not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's determination and agrees with their analysis. Therefore, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: General Library, University of California, P. O. Box 19559, Irvine, California 92713.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern Edison Company, P.O. Box 800, Rosemead, California 91770
NRC Project Director: George W. Knighton

United States Department of Commerce, National Bureau of Standards (NBS), Docket No. 50184, NBS Test Reactor

Date of amendment request: June 22, 1987

Description of amendment request: The licensee plans to install seven neutron guide tubes through the confinement building to guide cold neutrons from the reactor into a new building called the Guide Hall. The Guide Hall will house fifteen or more state-of-the-art neutron instruments which will provide the capability, not presently available in the U.S., to characterize new material, analyze chemical and biological processes, develop advanced technologies, and explore fundamental physical concepts. The guide tubes are mounted in pipes that penetrate the confinement building wall. The penetrations are similar to existing penetrations. The pipes are sealed to the wall with gastight seals and the guide tubes/pipes are evacuated and sealed at

each end with gastight seals. In addition, automatic isolation valves are provided in each guide tube that serve two functions. The primary function is to close automatically whenever an event calls for sealing the building. The second function is to act as beam tube shutters and to seal the building whenever maintenance work is being performed on the guide tubes. The function of these valves is the same as that of existing isolation valves in the confinement closure system.

In anticipation that it may be necessary to replace the existing reactor main heat exchangers, provisions are being made now to expedite the installation of new heat exchangers in the future. Rather than physically removing the existing heat exchangers, which are located deep within the process room, they would be left in place and the new heat exchangers would be located in a new, easily accessible room adjacent to the west wall of the process room. The new location would be below ground at the elevation of the existing process room and have direct access for personnel and piping. The new room would be considered as part of the confinement boundary and be subject to the confinement system Technical Specifications.

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 licensee's evaluation with regard to the three criteria in 10 CFR 50.92(c) are as follows: The proposed change in the NBS Reactor Technical Specifications does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated since the proposed confinement penetrations are similar to existing penetrations and would not affect confinement integrity or performance.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated since confinement penetrations were

considered in the original Safety Analysis Report and the proposed penetrations would not affect confinement integrity performance.

3. Involve a significant reduction in a margin of safety since both confinement structural integrity and confinement performance requirements would not be affected.

The staff agrees with the licensee's no significant hazard consideration determination analysis for the following reasons.

1. The only Technical Specification change that is being requested by the licensee is the addition of guide tubes to Technical Specification Section 1.3(2) to read as follows: "All automatic isolation valves in Tventilation, process piping and guide tubes are either operable or closed." The only difference between the existing and proposed Technical Specifications is the addition of "guide tubes."

2. The Technical Specifications dealing with the confinement system would not be changed and, therefore, the confinement system performance would not be affected.

3. Addition of the new penetrations would not affect any conclusions reached in previous accident analyses.

4. The licensee has detailed structural calculations that show the planned penetrations through the confinement building wall, for both the guide tubes and heat exchanger room, would not affect the structural integrity of the confinement building and that it would continue to meet its original design objectives.

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: N/A

Attorney for licensee: N/A

NRC Project Director: Herbert N. Berkow

Wolf Creek Nuclear Operating Corporation, Kansas Gas and Electric Company, Kansas City Power & Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 28, 1987.

Description of amendment request: This application for amendment revises Technical Specification Figure 6.22 to reflect changes in organizational reporting relationships. Technical Specification 6.3.1 is also being revised to replace reference to the Site Health Physicist with a reference to the Radiation Protection Manager.

The first requested revision results from changes in reporting relationships. The Medical and Safety Groups are being deleted from Figure 6.22 as they now report through the Operating Corporation Organization, Figure 6.21, to the Director Administrative Services. The Results Engineering Group previously reporting to the Superintendent of Plant Support now reports to the Superintendent of Technical Support. The Health Physics Group previously reporting to the Superintendent of Technical Support now reports to the Superintendent of Plant Support. These changes represent organizational enhancements by altering reporting relationships and do not constitute a change in job responsibilities or overall organizational commitments.

The second requested revision allows a qualified individual to assume the responsibilities of the Radiation Protection Manager if he or she meets or exceeds the qualifications required by Technical Specification 6.3.1. This change does not reduce the level of Health Physics expertise within the Plant Staff since the same technical and management responsibilities are still embodied in the Plant Support Organization.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92 the licensee has submitted the following no significant hazards determination:

The proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated. These changes involve organizational modifications and reassignment of responsibilities, as such, have no effect on plant equipment or reduce the level of qualifications for the Radiation Protection Manager.

The proposed revisions do not create the possibility of a new or different kind of accident from any accident previously evaluated. These changes do not affect plant systems or the overall operating philosophy of Wolf Creek Generating Station.

The proposed revisions do not involve a significant reduction in a margin of safety. These changes do not involve any changes in overall organizational commitments. Organizational modifications and reassignment of responsibilities do not reduce any margin of safety.

Based on the above discussions it has been determined that the requested Technical Specification revisions do not involve a significant increase in the probability or consequences of an accident or other adverse condition over

previous evaluations; or create the possibility of a new or different kind of accident or condition over previous evaluations; or involve a significant reduction in a margin of safety. Therefore, the requested license amendment does not involve a significant hazards consideration.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka Kansas

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this biweekly notice. They are repeated here because the biweekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the *Federal Register* on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Power Company, Docket Nos. 50369 and 50370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Dates of amendment request: May 4 and July 2, 1987

Brief description of amendments: The proposed amendments would revise the Technical Specifications (TSs) to

incorporate the ventilation system of the Equipment Staging Building (ESB) as a new gaseous effluent release point, to specify the limiting conditions for operation and surveillance requirements for this ventilation system and its monitoring instrumentation, and to add associated requirements to the gaseous waste sampling and analysis program.

Date of publication of individual notice in Federal Register: July 31, 1987 (52 FR 28624)

Expiration date of individual notice: August 31, 1987

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC) Station, North Carolina 28223

NOTICE OF ISSUANCE OF AMENDMENT TO T FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related Tletters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the

Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arizona Public Service Company, et al, Docket Nos. STN 50-528, STN 50-529 and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2 and 3, Maricopa County, Arizona

Date of applications for amendments: January 23, 1987 (as supplemented by letter dated May 15, 1987), April 6, May 4 and May 6, 1987.

Brief description of amendments: The amendments revised the surveillance requirements in Specification 4.6.4.2 for the hydrogen recombiner system, the pressurizer heater capacity in Specification 3/4.4.3, the definition in Table 2.21 of the Rate and Band terms which provide input to the Variable Overpower Trip function, and the number of steps in Specification 3.0.3 for achieving Cold Shutdown.

Date of issuance: August 14, 1987

Effective date: August 14, 1987

Amendment Nos.: 19, 10 and 1

Facility Operating License No.

NPF41, NPF51 and NPF65: Amendments change technical specifications.

Date of initial notice in Federal Register: May 6, 1987 (52 FR 16940) and June 3, 1987 (52 FR 20796) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 14, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: May 29, 1987, as supplemented by a letter dated July 15, 1987.

Brief description of amendment: This amendment revises the Technical Specifications to reflect modifications to the Standby Liquid Control System in response to the Anticipated Transient Without Scram Rule, 10 CFR 50.62(c)(4).

Date of issuance: August 5, 1987

Effective date: August 5, 1987

Amendment No.: 102

Facility Operating License No.

DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 17, 1987 (52 FR 23096) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 5, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Boston Edison Company Docket No. 50293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: February 18, 1987.

Brief description of amendment: The amendment revises the Technical Specifications by correcting addresses for reports to NRC to comply with the revision to 10 CFR 50.4.

Date of issuance: August 5, 1987

Effective date: August 5, 1987

Amendment No.: 103

Facility Operating License No. DPR35: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 17, 1987 (52 FR 23096) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 5, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Dates of application for amendments: August 29, 1986, as supplemented July 16, 1987

Brief description of amendments: The amendments remove the requirement that primary containment isolation valves only be tested in the cold shutdown or refueling modes of operation. The containment isolation valves are capable of being tested during power operation.

Date of issuance: August 10, 1987

Effective date: August 10, 1987

Amendments Nos.: 110 and 137

Facility Operating License Nos. DPR71 and DPR62: Amendments revise the Technical Specifications.

Date of initial notice in Federal Register: October 8, 1986 (51 FR 36084) The July 16, 1987 letter provided supplemental information which did not change the initial determination as published in the **Federal Register**. The

Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 10, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Commonwealth Edison Company,
Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of application for amendments: September 10, 1986, supplemented October 7, 1986; and March 5, 1987

Brief description of amendments: These amendments revise the Administrative Controls section of the Technical Specification to reflect a new organization and add requirements to the Technical Specifications that the High Energy Line Break Isolation Sensors be operable. The October 7, 1986 submittal was made to correct the original submittal and did not contain any substantive changes.

Date of issuance: July 23, 1987

Effective date: July 23, 1987

Amendment Nos.: 9

Facility Operating License Nos. NPF-37 and NPF-66: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: October 8, 1986 (51 FR 36085) and April 22, 1987 (52 FR 13334). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 23, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

Commonwealth Edison Company,
Docket Nos. 50-254 and 50-255, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: May 14, 1986

Brief description of amendments: 4KV Bus Tie operability and surveillance requirements for Units 1 and 2 have been incorporated to assure availability of an alternative offsite electrical power source.

Date of issuance: August 6, 1986

Effective date: August 6, 1987

Amendment Nos.: 102, 99

Facility Operating License Nos. DPR29 and DPR30: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 19, 1986 (51 FR 41848). The Commission's related evaluation of the amendments is

contained in a Safety Evaluation dated August 6, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Commonwealth Edison Company,
Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Lake County, Illinois

Date of application for amendments: April 9, 1987

Brief description of amendments: These amendments expand the containment isolation valve list, correct minor errors, and incorporate guidance of NUREG-0452, Rev. 4.

Date of Issuance: June 23, 1987

Effective date: June 23, 1987

Amendment Nos.: 105 and 95

Facility Operating License Nos. DPR-39 and DPR-48: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 20, 1987 (52 FR 18975) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 23, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Commonwealth Edison Company,
Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Lake County, Illinois

Date of application for amendments: April 8, 1987

Brief description of amendments: These amendments revise the specimen capsule withdrawal schedule to incorporate the removal of two additional specimen capsules at fluences in excess of those expected at End of Life. This is consistent with the requirements of 10 CFR 50, Appendix H.

Date of issuance: July 20, 1987

Effective date: July 20, 1987

Amendment Nos.: 106 and 96

Facility Operating License Nos. DPR39 and DPR48: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 20, 1987 (52 FR 18974) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 20, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Connecticut Yankee Atomic Power Company, Docket No. 50213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: February 20, 1987.

Brief description of amendment: By-Product Material License No. 0611682-01 was issued May 13, 1966 to allow the possession and use of certain byproduct materials prior to the issuance of the Haddam Neck Operating License (DPR-16). This amendment adds conditions to the Operating License (DPR-16) to permit the possession and use of certain byproduct materials currently allowed by the byproduct material license.

Date of issuance: August 5, 1987

Effective date: August 5, 1987

Amendment No.: 92

Facility Operating License No. DPR61: Amendment revised the technical specifications.

Date of initial notice in Federal Register: March 25, 1987 (52 FR 9565). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 5, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Dairyland Power Cooperative, Docket No. 50409, LaCrosse Boiling Water Reactor, LaCrosse, Wisconsin

Date of application for amendment: May 22, 1987

Brief description of amendment: This amendment modifies Provisional Operating License No. DPR-45 to possess but not operate status.

Date of issuance: August 4, 1987

Effective Date: August 4, 1987

Amendment No.: 56

Facility Operating License No. DPR-45: This amendment revises the license.

Date of initial notice in Federal Register: July 1, 1987 (52 FR 24546). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 4, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: LaCrosse Public Library, 800 Main Street, LaCrosse, Wisconsin 54601.

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: June 10, 1987, as supplemented June 11 and 16, 1987

Brief description of amendments: The amendments allow the extension, on a

one-time basis, of several 18-month Technical Specification surveillance intervals until the first refueling outage for Unit 2.

Date of issuance: August 7, 1987

Effective date: August 7, 1987

Amendment Nos.: 29 and 20

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 1, 1987 (52 FR 24548) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 7, 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. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: November 19, 1985, as supplemented June 16, 1986, February 18, 1987 and June 5, 1987

Brief description of amendments: The amendments revise the Station's common Technical Specifications to allow the use of the multielement (threefuelassembly) spent fuel casks in the Oconee Unit 3 spent fuel pool.

Date of Issuance: August 6, 1987

Effective date: August 6, 1987

Amendment Nos.: 160, 160, and 157

Facility Operating Licenses Nos.

DPR-38, DPR-47, and DPR-55: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 12, 1987 (52 FR 7682) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 6, 1987, and in an Environmental Assessment dated July 30, 1987 (52 FR 29098)

No significant hazards consideration comments received: No

Local Public Document Room

location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691

General Electric Company, Docket No. 5070, General Electric Test Reactor

Date of application for amendment: April 2, 1987

Brief description of amendment: The proposed amendment would revise the Technical Specifications (TS) to authorize the deletion of the cooling tower from the definition of the reactor facility.

Date of issuance: August 3, 1987

Effective Date: August 3, 1987

Amendment No.: 15

Facility License No. TR1: This amendment revises the Technical Specifications.

Date of initial notice in Federal Register: June 17, 1987 (52 FR 23098) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 3, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room

location: N/A

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: August 25, 1986, as supplemented January 23 and April 30, 1987

Brief description of amendments: The amendments modified the Technical Specifications by revising the high room temperature setpoints for the Reactor Water Cleanup system.

Date of issuance: August 10, 1987

Effective date: August 10, 1987

Amendment Nos.: 144 and 79

Facility Operating License Nos. DPR-57 and NPF-5: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 26, 1987 (52 FR 5855) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 10, 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

Dates of applications for amendments: February 17, May 16, August 27, October 27, and November 24, 1986

Brief description of amendments: The amendments modify the Technical Specifications to reflect organization changes.

Date of issuance: August 10, 1987

Effective date: August 10, 1987

Amendment Nos.: 145 and 80

Facility Operating License Nos. DPR-57 and NPF-5: Amendments revised the Technical Specifications.

Dates of initial notices in Federal Register: May 7, 1986 (51 FR 16928), July 2, 1986 (51 FR 24255), October 19, 1986

(51 FR 41854), December 17, 1986 (51 FR 45200) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 10, 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: May 15, 1987 as supplemented June 30, and July 15, 1987.

Brief description of amendment: This amendment authorizes onetime extensions to the surveillance intervals for certain reactor protection system and isolation actuation instrumentation until the first refueling outage scheduled to begin September 15, 1987.

Date of issuance: August 3, 1987.

Effective date: August 3, 1987.

Amendment No.: 8

Facility Operating License No. NPF-47: This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 1, 1987 (52 FR 24553). The licensee's June 30, 1987 submittal withdrew the Technical Specification change request specified in Attachment 4 to the May 15, 1987 application and the July 15, 1987 letter provided clarification regarding typographical errors in the May 15, 1987 submittal. These submittals did not alter the NRC staff's determination of no significant hazards as published in the Federal Register. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 3, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of application for amendment: May 11, 1987 as supplemented July 15 and 27, 1987.

Brief description of amendment: This amendment authorizes onetime extensions to the surveillance intervals for certain reactor protection system and engineered safety feature instrumentation and other miscellaneous systems until the first refueling outage scheduled to begin September 15, 1987.

Date of issuance: August 12, 1987.

Effective date: August 12, 1987.

Amendment No.: 9

Facility Operating License No. NPF-47. This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 1, 1987 (52 FR 24552). The licensee's July 15 and 27, 1987 submittals provided editorial changes to the May 11, 1987 submittal and did not alter the NRC staff's determination of no significant hazards as published in the Federal Register. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 12, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

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.

Brief description of amendment: The amendment revised the Technical Specifications by adding operability and surveillance requirements for the Auxiliary Pressurizer Spray system.

Date of issuance: August 12, 1987.

Effective date: August 12, 1987.

Amendment No.: 22

Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 17, 1987 (52 FR 23099) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 12, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room

location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Northeast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: May 21, 1987 as supported by letters dated June 30 and July 14, 1987.

Brief description of amendment: This amendment will revise the current Tminimum critical power ratio (MCPR), the linear heat generation (LHGR), and the maximum average planar linear heat generation rate (MAPLHGR) to reflect Reload 11/Cycle 12 operation using 196

General Electric type GE8x8EB (GE-8B) fuel assemblies.

Date of issuance: August 6, 1987

Effective date: August 6, 1987

Amendment No.: 6

Facility Operating License No. DPR21. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 2, 1987 (52 FR 25099). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 6, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station Unit No. 3, Town of Waterford, Connecticut

Date of application for amendment: February 26, 1987

Brief description of amendment: The amendment revised the Technical Specification Tables 3.31 and 3.32 to delete functional unit 21 (Reactor Trip Bypass Breakers). This is an editorial change to ensure consistency of the Millstone 3 Technical Specifications with Generic Letter 85-09.

Date of issuance: August 7, 1987

Effective date: August 7, 1987

Amendment No.: 8

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 25, 1987 (52 FR 9578) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Waterford Public Library, Rope Ferry Road, Waterford, Connecticut.

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: February 20, 1987, as revised April 20, 1987

Brief description of amendment: The amendment revised the steam generator tube plugging criteria based upon the use of the F* distance criteria.

Date of issuance: August 7, 1987

Effective date: August 7, 1987

Amendment No.: 133

Facility Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 6, 1987 (52 FR 16952) The

Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 7, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room

location: Branford Price Millar Library, Portland State University, 731 S. W. Harrison St., Portland Oregon 97207

Southern California Edison Company, et al, Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of applications for amendments: January 24, 1984; April 19, July 1 and October 25, 1985, and February 7, 1986.

Brief description of amendments: The amendments revise the operating licenses by deleting License Condition 2.C.(5) relating to environmental qualification of electrical equipment. The amendments also revise Technical Specification 3/4.3.2, "Engineered Safety Feature Actuation System

Instrumentation;" 3/4.3.3.6, "Accident Monitoring Instrumentation;" and 3/4.7.1.5, "Main Steam Isolation Valves."

Date of issuance: August 14, 1987

Effective date: August 14, 1987, to be implemented within 30 days of issuance.

Amendment Nos.: 60 and 49

Facility Operating License Nos. NPF-10 and NPF-15: The amendments delete certain conditions of the licenses and change the Technical Specifications.

Date of initial notice in Federal Register: April 9, 1986 (51 FR 12240); and June 4, 1986 (51 F.R. 20375) and May 21, 1986 (18694). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 14, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room

location: General Library, University of California, Irvine, California 92713.

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: May 7, 1987.

Brief description of amendment: The amendment revised Technical Specification 3.35, Engineered Safety Features (ESF) response times for items 2.a. (Containment PressureHigh1, Safety Injection), 3.a. (Pressurizer PressureLow, Safety Injection), and 4.a. (Steam Line PressureLow, Safety Injection).

Date of issuance: August 4, 1987.

Effective date: August 4, 1987.

Amendment No.: 9

Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 20, 1987 (52 FR 18991). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 4, 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

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy TAct 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 30day 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 Twithout opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission,

Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By September 25, 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 tollfree 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).

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba New York

Date of application for amendment: July 22, 1987

Brief description of amendment: This amendment revises Technical Specification 3/4.7.1 to change the service water supply header discharge temperature to 77°F or less during the startup test program at power levels below 50%.

Date of issuance: July 31, 1987

Effective date: July 22, 1987

Amendment No.: 1

Facility Operating License No. NPF-69: 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, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated July 31, 1987.

Attorney for the Licensee: Mark J. Wetterhahn, Conner & Wetterhahn, P.C., 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

Local Public Document Room location: Penfield Library, State TU University College, Oswego, New York 13126.

NRC Project Director: Robert A. Capra, Acting

Northeast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: May 22, 1987

Brief description of amendment: Proposed change to Technical Specification Sections 3.4, 4.4, and the associated bases to reflect compliance with 10 CFR 50.62 requirement for Standby Liquid Control Systems. Proposal change uses B-10 enriched sodium pentaborate to achieve equivalent injection capacity.

Date of issuance: July 30, 1987

Effective date: July 30, 1987

Amendment No.: 5

Facility Operating License No. DPR-21: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes, July 2, 1987 (52 FR 25907).

Comments received: No.

The Commission's related evaluation of the amendment, consultation with the State, and final determination of no

significant hazards consideration are contained in a Safety Evaluation dated July 30, 1987.

Attorney for the licensee: Gerald Garfield, Esquire, Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385

Project Director: Cecil O. Thomas

Northeast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: July 23, 1987 as supplemented July 30, 1987.

Brief description of amendment: The changes to the technical specifications (TS) allows startup of Millstone Unit No. 1 with flow indication from nineteen (19) jet pumps, rather than the previously required twenty (20) and revises jet pump surveillance provisions. The technical specifications currently permit operation with flow indication from nineteen (19) jet pumps. This requirement is unchanged.

Date of issuance: August 6, 1987

Effective date: August 6, 1987

Amendment No.: 7

Facility Operating License No. DPR-21: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are considered in a Safety Evaluation dated August 6, 1987.

Attorney for Licensee: Gerald Garfield, Esq., Day, Berry and Howard, City Place, Hartford, Connecticut, 06103-3499.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northeast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: August 11, 1987.

Brief description of amendment: The change to the technical specifications (TS) allows a single control rod drive to be removed and repaired or replaced without the reactor vessel head on, the cavity flooded and the spent fuel pool gates removed. The change is consistent with the intent of the TS in effect prior

to the issuance of Amendment No. 1 on January 29, 1987.

Date of issuance: August 14, 1987

Effective date: August 14, 1987

Amendment No.: 8

Facility Operating License No. DPR21. This amendment revised the technical specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are considered in a Safety Evaluation dated August 14, 1987.

Attorney for Licensee: Gerald Garfield, Esq., Day, Berry and Howard, City Place, Hartford, Connecticut, 061033499.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

NRC Project Director: Cecil O. Thomas

Virginia Electric and Power Company, et al., Docket No. 50-339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of application for amendment: July 30, 1987

Brief description of amendment: The amendment suspends the surveillance testing requirements of TS 3.7.1.7 and 4.7.1.7.2.a relating to the turbine Tgovernor valves for the remainder of Cycle 5 operation for NA2.

Date of issuance: August 6, 1987

Effective date: August 6, 1987

Amendment No.: 81

Facility Operating License No. NPF7: 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 and final determination of no significant hazards consideration are contained in a Safety Evaluation dated August 6, 1987.

Attorney for Licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

NRC Project Director: Lester S. Rubenstein

Dated at Bethesda, Maryland this 20th day of August 1987.

For the Nuclear Regulatory Commission
Steven A. Varga, Director
Division of Reactor Projects/II
Office of Nuclear Reactor Regulation
[FR Doc. 87-19435 Filed 8-25-87; 8:45 am]
BILLING CODE 7590-01-D

OFFICE OF PERSONNEL MANAGEMENT

Meeting; Director's Task Force on the Combined Federal Campaign

August 25, 1987.

Time and dates: Tuesday, September 8, 1987, 8:30 a.m., and Thursday, September 10, 1987, 8:30 a.m.

Place: Office of Personnel Management Auditorium, 1900 E Street NW., Washington, DC 20415.

Status: Open.

Matters to be considered: Future of the Combined Federal Campaign.

Contact Person for more information: Jeremiah J. Barrett, Secretary, Director's Task Force on the Combined Federal Campaign, 1900 E Street NW., Room 7354, Washington, DC 20415, (202) 632-5564.

SUPPLEMENTARY INFORMATION: All persons wishing to testify before the Task Force must submit eight copies of their testimony to Mr. Barrett at the above address no later than September 1, 1987.

Constance Horner,
Director.

[FR Doc. 87-19756 Filed 8-25-87; 11:23 am]
BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 15944; (812-6687)]

Application for Exemption; American Healthcare Systems

August 20, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: American Healthcare Systems.

Relevant 1940 Act Sections: Exemption requested under section 6(c) from all provisions of the Act.

Summary of Application: Applicant seeks an order exempting certain wholly-owned finance subsidiaries to be created by Applicant from all provisions of the Act in connection with the issuance and sale by such subsidiaries of certain debt obligations.

Filing Date: The application was filed on April 15, 1987 and amended on August 7, 1987 and August 14, 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 September 14, 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, 1205 Prospect, Suite 520, San Diego, California 92037.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Staff Attorney (202) 272-3046 or Curtis R. Hilliard, Special Counsel (202) 272-3030 (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. American Healthcare Systems ("AHS" or "Applicant") is a corporation formed in 1984 under the laws of the State of California, all of the outstanding stock of which is currently held by 32 hospital systems (the "Member Systems"). The Member Systems are non-profit corporations (except for one Member System that is a for-profit corporation but is wholly-owned by non-profit hospitals) that control the operation of more than 450 hospitals and health care facilities throughout the United States and conduct, through subsidiaries or affiliates (some of which are for-profit entities), related health care business activities such as occupational health clinics, home health agencies, hospital management services, retirement housing communities and health care consulting services. Each of the Member Systems (or, in the case of the one for-profit Member System, each of its hospital owners) is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. Under Applicant's Articles of Incorporation and Bylaws, a Member

System may only transfer its shares of the Applicant to entities that are approved by the executive committee of the board of directors of Applicant or a majority of the other Member Systems, and a Member System must grant Applicant an option to redeem such shares in the event that the Member System sells or transfers substantially all of its assets.

2. The business of Applicant is to develop and coordinate the activities of the Member Systems in those areas in which such coordination will permit the Member Systems to better carry out their health care functions by achieving cost savings or other efficiencies or engaging in activities of a size or geographic scope which no one system could undertake on its own. Applicant provides to the Member Systems, either directly or through subsidiaries, joint ventures and partnerships, the management and staff support in such areas as human resources, marketing, material management, quality assurance, pharmacy and planning. Applicant plans to establish a wholly-owned subsidiary that will provide malpractice insurance coverage for the Member Systems at savings over current premium costs.

3. Applicant is proposing to create one or more wholly-owned finance subsidiaries (the "AHS Finance Company") to respond to the Member Systems' financing requirements in light of continuing changes in the laws governing the issuance of tax-exempt bonds and regulations governing Federal health care programs such as Medicare. In the past, the Member Systems relied on tax-exempt bonds issued by various state and local health care facilities authorities for a significant portion of their capital funding. The issuance of such bonds and the application of the proceeds therefrom has been limited by recent changes in the tax laws. Moreover, cash flow changes resulting from recent cutbacks and modifications in federal health care programs have increased the financing needs of the Member Systems. The financing needs of the individual Member Systems are not large enough to support the issuance of taxable debt securities in amounts that can be effectively sold at competitive rates in the taxable debt market. Therefore, Applicant and the Member Systems desire to establish the AHS Finance Company as a means of issuing taxable debt securities to meet the aggregate financing needs of Applicant and the Member Systems.

4. All of the proceeds of sales of the debt securities will, except to the extent applied to redeem maturing securities, be loaned to the Member Systems, certain subsidiaries and affiliates of the

Member Systems, Applicant and subsidiaries of Applicant (collectively, the "AHS Group") or to joint ventures or partnerships of which a member or members of the AHS Group form a part. Such proceeds will be loaned primarily to the Member Systems or their subsidiaries or affiliates or to joint ventures or partnerships of which a member or members of the AHS Group form a part. In no event will proceeds be loaned to (i) joint ventures or partnerships comprising entities outside the AHS Group that are not charitable institutions or (ii) subsidiaries of the Member Systems or Applicant whose equity securities are also owned by private individuals or entities that are not charitable institutions. In addition, loans will be made to joint ventures or partnerships only where Applicant or the AHS Group has the power to exercise a controlling influence over the management and policies of the partnership or joint venture. The Member Systems will pay a fee to the AHS Finance Company for its administrative and servicing activities in connection with the financing programs.

5. The AHS Finance Company will issue and sell medium term notes (the "Medium Term Notes") initially up to an aggregate principal amount of approximately \$100,000,000 which will have stated maturities from nine months to ten years from the date of issue, and be issued and sold primarily to institutional investors in denominations of \$100,000 or more. The Medium Term Notes, and any future offering of debt securities by the AHS Finance Company, will have received prior to their issuance one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization. It is anticipated that payments of principal of and interest on the initial issues of the Medium Term Notes will be backed by an irrevocable letter of credit (the "Note Letter of Credit") issued by a United States bank or a United States branch or agency of a foreign bank (the "Bank") that will entitle the Trustee (defined below) to make drawings in an amount equal to the principal amount of the outstanding Medium Term Notes plus interest accrued thereon.

6. The Medium Term Notes will be issued pursuant to the terms of an indenture (the "Indenture") between the AHS Finance Company and a trustee (the "Trustee") that, while exempt from qualification under the Trust Indenture Act of 1939 (the "1939 Act") by virtue of the Note Letter of Credit and the Guarantee Letter of Credit (hereinafter defined), will be generally consistent with the requirements of the 1939 Act.

The Indenture will provide that it can be amended without noteholder consent to qualify under the 1939 Act. In the event that any future issues of Medium Term Notes are not guaranteed by a Note Letter of Credit, they will, absent another applicable exemption, be registered under the Securities Act of 1933 and the related trust indenture will be qualified under the 1939 Act.

7. The Medium Term Notes will be exempt from registration under the Securities Act of 1933 (the "1933 Act") pursuant to section 3(a)(2) thereof. In the event that any future issues of Medium Term Notes are not guaranteed by a Note Letter of Credit, they will, absent an applicable exemption under sections 3(a)(3) or (4)(2), be registered under the 1933 Act and the related trust indenture will be qualified under the 1939 Act.

7. The Member Systems will use the proceeds raised through issuance of the Medium Term Notes to purchase specialized medical equipment; to provide interim financing for construction of health care related facilities; to finance health care related joint ventures and refinance bank or other loans previously incurred to finance their health care activities; to finance the construction of medical office buildings; and to provide interim financing for acquisitions by Member Systems of hospitals or other health care facilities. A portion of the proceeds of the Medium Term Notes will be loaned to subsidiaries of Applicant, particularly the malpractice insurance subsidiary that Applicant plans to organize.

8. Applicant will unconditionally guarantee payment of the principal of, and interest on, the Medium Term Notes (the "AHS Guarantee"). In addition, whenever any Member System, or any subsidiary or affiliate of a Member System, or partnership or joint venture of which one of such entities is part, borrows from the AHS Finance Company, the Member System in question will enter into a reimbursement agreement with Applicant (the "Reimbursement Agreement"), pursuant to which such Member System will agree to reimburse Applicant for any amounts Applicant pays under the AHS Guarantee as a result of a default by the borrower on the loan to it by the AHS Finance Company. The articles of incorporation of AHS grant the power and authority to the board of directors of AHS to levy and collect from each member System additional contributions to the Capital of AHS in the event that the working capital of AHS becomes or is likely to become insufficient for the conduct of its business. The power of assessment provides further support for the AHS Guarantee. Further, whenever AHS, or any subsidiary thereof or any

joint venture or partnership of which AHS or an AHS subsidiary forms a part, borrows from the AHS Finance Company, the payment of principal of and interest on such borrowing will be unconditionally guaranteed by the Member Systems. In the case of Medium Term Notes that are backed by a Note Letter of Credit, the AHS Guarantee will also be backed by an irrevocable letter of credit issued by a United States bank or United States branch or agency of a foreign bank (the "Guarantee Letter of Credit" and, together with the Note Letter of Credit, the "Letters of Credit"). The Guarantee Letter of Credit will entitle the Trustee to make drawings in the event of any failure by Applicant to make payment as required by the terms of its guarantee.

9. Loans made by the AHS Finance Company will be evidenced by loan agreements (the "Loan Agreements") between the AHS Finance Company and the borrowing entity and by notes of the borrowing entity (the "Hospital Notes"). Pursuant to the Indenture, the AHS Finance Company will pledge and assign to the Trustee, as additional security for the Medium Term Notes, all right, title and interest in and under the Loan Agreements and the Hospital Notes. The Trustee will be entitled to commence legal proceedings against any obligor on a Hospital Note that defaults in the payment of principal or interest thereon and the holders of a majority in principal amount of outstanding Medium Term Notes may direct the Trustee to bring suit for any remedy available or to exercise any power conferred upon the Trustee under the indenture.

10. Applicant anticipates that the Medium Term Notes will be offered by the AHS Finance Company, initially on a continuing basis, through one or more major investment banking firms experienced in the marketing of such securities. Applicant will cause the AHS Finance Company to ensure that each dealer in the Medium Term Notes will provide to each offeree, prior to any sale of such securities, an offering memorandum that contains certain financial and other descriptive information regarding Applicant, the AHS Finance Company and the Bank, describes the Member System to which loans may be made, and describes the Letters of Credit and any other collateral or credit enhancement securing the Medium Term Notes, as well as any arrangements with the Member Systems regarding such collateral. The memorandum will be updated periodically to reflect material changes in the financial status of Applicant, the AHS Finance Company

and the Bank, and will be comparable to those customarily used in similar offerings.

11. The AHS Finance Company may, from time to time in the future, offer and sell commercial paper and short, medium and long term debt. Proceeds raised by the issuance of commercial paper and such debt will be loaned to members of the AHS Group in a manner similar in all material respects to that described above. Applicant will guarantee payments of principal of and interest on such securities and the Member Systems will enter into a Reimbursement Agreement with respect to such AHS Guarantee as described above. Such securities may also be guaranteed by a bank letter of credit. Applicant will cause the AHS Finance Company to ensure that, prior to the sale of any such securities, offerees will be provided with disclosure documents containing descriptions of Applicant, the AHS Finance Company and the Bank (if applicable), and any collateral or other credit enhancement securing such securities, comparable to that contained in the type of offering memoranda customarily used in offerings of commercial paper or such other debt securities, as the case may be. Absent an applicable exemption, such securities will be registered under the 1933 Act; and any indenture governing such securities will be generally consistent with the requirements of the 1939 Act and, absent an applicable exemption, will be qualified under the 1939 Act.

Applicant's Conclusions of Law

1. Approval of the Application would be appropriate in the public interest. If the exemption requested by the Application were not granted, the access of the Member Systems to the debt markets as a source of financing will be severely restricted for reasons unrelated to their creditworthiness, namely changes in the tax law affecting tax-exempt securities and the issue size required by the taxable debt market to offer debt securities at competitive rates.

2. Approval of the Application would be consistent with the protection of investors and the purposes fairly intended by the 1940 Act because, among other things, the business in which the AHS Finance Company proposes to engage is not of the type intended to be regulated by the 1940 Act; the organization of the AHS Finance Company and its activities are consistent with the type of activities excluded from the 1940 Act under section 3(c)(10) and Rule 3a-5; and investors will be protected under the proposed arrangements to the same

extent as under equivalent arrangements where specified exclusions from the 1940 Act apply. The members of the AHS Group that will receive proceeds raised by the AHS Finance Company are not investment companies within the meaning of the 1940 Act and there is no risk of the type of abuses against which the 1940 Act is directed.

Applicant's Conditions

Applicant expressly agrees to the following conditions:

(1) Debt obligations issued by the AHS Finance Company will be registered under the 1933 Act unless an exemption from registration is available under sections 3(a)(2), 3(a)(3) or 4(2) thereof and each indenture relating to such obligations will be qualified under the 1939 Act unless exempt from qualification pursuant to the 1939 Act;

(2) Debt obligations issued by the AHS Finance Company will have received, prior to their issuance, one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization;

(3) In the event that debt obligations issued by the AHS Finance Company are exempt from registration under the 1933 Act, Applicant will cause the AHS Finance Company to ensure that each dealer in such debt obligations will provide each offeree with an offering memorandum that contains certain financial and other descriptive information regarding Applicant, the AHS Finance Company and the Bank (if applicable), describes the member of the AHS Group to which loans may be made, and describes any letters of credit and any other collateral or credit enhancement securing such debt obligations, as well as any arrangements with the members of the AHS Group regarding such collateral, which memorandum will be updated periodically to reflect material changes in the financial status of Applicant, the AHS Finance Company and the Bank (if applicable). Such memorandum will be comparable to those customarily used in similarly exempt offerings;

(4) Applicant will unconditionally guarantee payment of the principal of and interest on debt obligations issued by the AHS Finance Company through the AHS Guarantee; and whenever any Member System, or any subsidiary or affiliate of a Member System, or a partnership or joint venture of which one of such entities forms a part, borrows from the AHS Finance Company the Member System in question will enter into a

Reimbursement Agreement with Applicant, pursuant to which such Member System will agree to reimburse Applicant for any amounts Applicant pays under its guarantee as a result of any default by the borrower. In addition whenever AHS or any subsidiary thereof, or any joint venture or partnership of which AHS or an AHS subsidiary forms a part, borrows from the AHS Finance Company the payment of principal of and interest on such borrowing will be unconditionally guaranteed by the Member Systems;

(5) Loans made by the AHS Finance Company will be evidenced by the Loan Agreements between the AHS Finance Company and the borrowing entity and by the Hospital Notes of the borrowing entity; pursuant to an indenture, the AHS Finance Company will pledge and assign to the Trustee, for the benefit of the holders of debt obligations of the AHS Finance Company, all right, title and interest in and under the Loan Agreements and the Hospital Notes. The Trustee will be entitled to commence legal proceedings against any obligor on a Hospital Note that defaults in the payment of principal thereof or interest thereon and the holders of a majority in principal amount of outstanding notes may direct the Trustee to bring suit for any remedy available or to exercise any power conferred upon the trustee under the indenture.

(6) All of the proceeds of sales of the debt obligations of the AHS Finance Company will, except to the extent applied to redeem maturing securities, be loaned to the AHS Group or to partnerships or joint ventures of which a member or members of the AHS Group form a part. In no event will proceeds be loaned to joint ventures or partnerships comprising entities outside the AHS Group that are not charitable institutions or to subsidiaries of the Member Systems or Applicant whose equity securities are also owned by private individuals or entities that are not charitable institutions; loans will be made to joint ventures or partnerships only where Applicant or the AHS Group has the power to exercise a controlling influence over the management and policies of the partnership or joint venture; and

(7) Members of the AHS Group that will receive proceeds raised by the AHS Finance Company will not be investment companies under the Act.

For the Commission, by the Division of

Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 87-19536 Filed 8-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24813; File No. 4-260]

Self-Regulatory Organizations; Filing of Proposed Amendment to Plan by the American 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) thereunder,¹ notice is hereby given that on June 9, 1987, the American Stock Exchange, Inc. ("Amex") submitted copies of a proposed amendment to its minor rule violation plan. The Commission previously approved a minor rule violation plan filed by the Amex.² The plan relieves the Amex of the current reporting requirements imposed by section 19(d)(1) for "final" disciplinary actions, with respect to violations listed under the Amex plan.³

The proposed amendment would increase the fines that may be imposed under the Amex's minor rule violation plan. At present, fines pursuant to the plan range from \$50 for a first offense to \$500 for a sixth offense within a rolling six month period. Further, under the current plan after the sixth offense within that period, the member or member organization may not plead guilty and have the disposition of the violation processed pursuant to the plan by payment of the assessed fine, but must instead appear at a hearing before the Exchange's Disciplinary Committee. The Amex is proposing to amend this schedule by assessing fines of \$100 for a

¹ See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828. 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 the purposes of section 19(d)(1) 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 No. 21918 (April 3, 1985), 50 FR 14068.

³ See 17 CFR 240.19d-1(c). By deeming unadjudicated, minor violations as not final, the Commission permits the Amex to report violations on a periodic, as opposed to immediate, basis.

first offense, \$300 for a second offense, and \$500 for a third offense. This would effectively eliminate the use of the plan for fourth, fifth or sixth repeat offenses. The amendments would also require a member or member organization to appear before the Disciplinary Committee after three offenses of the same type within a six month period, rather than after six offenses, as currently required under the Plan. The amended plan would also permit a lesser fine of \$50 or the maximum fine of \$500 to be imposed for a first offense, if the Floor Governor or Exchange Official determines that the particular circumstances of the violation warrant such a response. Finally, the proposed amendments codify the Exchange's right to bring formal or summary charges against a member or member organization for violations or rules listed under the plan.

In order to assist the Commission in determining whether to approve the proposed amendments 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 [insert 21 days from date of publication]. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. 4-260. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed amendments which are filed with the Commission, and all written communications relating to the proposed amendment between the Commission and any other person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the file will also be available at the principal office of the Amex.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

Dated: August 18, 1987.

[FR Doc. 87-19531 Filed 8-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24814; File No. SR-CBOE-87-07]

**Self-Regulatory Organizations;
Chicago Board Options Exchange,
Inc.; Order Approving Proposed Rule
Change**

On March 16, 1987, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to require firms that execute stock transactions for Exchange options market makers to apply and register as stock execution services and to follow certain business practices and recordkeeping obligations.

The proposed rule change was noticed in Securities Exchange Act Release No. 24517 (May 27, 1987), 52 FR 20813 (June 3, 1987). No written comments were received by the Commission on the proposed rule change.

The CBOE states that the purpose of the proposed rule change is to recognize in the Exchange's rule structure those firms that conduct a stock execution service ("stock service") for members. The proposed rule would recognize stock service as a floor function for which Membership Committee approval is required. Such firms have existed for some time, but have not been identified or regulated as such by the rules. Under the proposed rule, all members engaged in the stock service business would be assured of equal treatment. The Exchange has described the stock service business as follows.³

A stock service has as its primary function the execution of hedging transactions in underlying securities for Exchange options market makers. Stock orders are solicited and initiated by stock service personnel from facilities maintained on the Exchange floor. To the extent that the stock orders are executed on the floor of a stock exchange, either by stock service personnel or through execution arrangements with other members of the stock exchange, a stock service may be authorized to use its own name or the name of another stock exchange member as the clearing broker ("give-up"). The contraside to an order will know the give-up as the party to the transaction.

In view of the interfaces of the various stock clearing corporations, the clearing broker (stock service or give-up) is able to "flip" the stock trade by settlement date to any stock clearing corporation for the account of the market-maker clearing firm.⁴ If during this process the stock service or its authorized give-up should for whatever reason cease to be a valid clearing member, it is likely that many market-maker stock transactions would not settle. This could occur despite the fact that the market-maker clearing firm and the various contra parties are valid clearing agents and are willing to clear the trades. Further, it is nearly impossible for the actual parties to these transactions to identify one another, as their dealings have been only with the stock service and/or its give-up clearing broker. This could expose CBOE market makers to enormous risk, as options positions they believed to be hedged by stock positions would become unhedged.

In order to avoid the potential for significant market risk in uncleared stock trades, the CBOE states that the proposed rule will require firms operating from the Exchange floor to apply and register to become stock service firms and establishes certain recordkeeping obligations. Stock services will be reviewed, prior to admission to membership and on an on-going basis thereafter, to ensure compliance with applicable recordkeeping, financial reporting and net capital standards, and to determine that proper procedures are in place to prevent, detect and liquidate errors.

To provide that the parties to market-maker stock trades may be identified at any given time, the Exchange has determined to work with stock services to establish recordkeeping standards and formats. Such records will form the basis for negotiating clearing safeguards at both Midwest Clearing Corporation and National Securities Clearing Corporation. It is not anticipated that any information would be required which the stock services are not already maintaining in some form.

The CBOE states that another purpose of the proposed rule change is to reduce the risk to Exchange members of uncleared stock transactions should a stock service firm become insolvent by requiring that a stock service utilize only Exchange members as clearing give-ups. Because the Exchange's jurisdiction is

limited to its members, the proposed rule change will ensure the Exchange's ability to enforce necessary recordkeeping standards, and help the Exchange to monitor the financial condition of stock execution services by making certain that the Exchange has jurisdiction over the books and records needed to ensure that market-makers' stock transactions are settled.

The CBOE states that a final purpose of the proposed rule change is to assist market-makers in assessing the financial security of giving their business to a particular stock service by requiring that a stock service provide limited financial information in the form of a current balance sheet upon request to its market-maker customers.

The CBOE contends that the statutory basis for the proposed rule change is section 6(b)(5) of the Act⁵ in that the rule change is designed to improve the market clearing and trading mechanism, and assure appropriate regulation of stock execution services.

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 6,⁶ and the rules and regulations thereunder. More specifically, the Commission agrees that it is appropriate for an options exchange to monitor firms operating on its floor to ensure the proper operation of floor activities. Thus, the proposed rule would recognize stock service as a floor function for which Membership Committee approval is required. In addition, the Commission agrees that the proposed rule change will improve the market clearing and trading mechanism by requiring firms that register as stock service firms to comply with recordkeeping, financial reporting, and net capital standards, and to utilize only Exchange members as clearing give-ups. The CBOE has an interest in ensuring the financial integrity of its options market makers. These minimal obligations imposed on stock execution services should help in this regard by ensuring that market makers' stock trades are subject to less risk of failure. In the ordinary course, a market maker presumably would be satisfied with the financial stability of a stock execution service before choosing that firm. The Commission believes that the CBOE's decision to facilitate market maker access to stock execution firms' current financial statements by Rule should

¹ 15 U.S.C. 78s(b)(1) (1982).

² 17 CFR 240.19b-4 (1986).

³ Letter from Mary Bender, Vice President, CBOE, to Howard Kramer, Assistant Director, Division of Market Regulation, dated May 11, 1987.

⁴ The Exchange states that these services are common to the national system for securities settlement and permit members of different clearing corporations to readily settle securities transactions, irrespective of the exchange on which those transactions occurred.

⁵ 15 U.S.C. 78f(b)(5) (1982).

⁶ 15 U.S.C. 78f (1982).

assist further market makers in making their selection of stock execution firms. Finally, the Commission does not believe that requiring stock execution services to use only CBOE members as give-ups improperly limits access by non-member clearing agents. Although the provision requires the clearing agent to be a member of CBOE, that clearing agent is free to settle the transaction at the clearing agency of its choice, consistent with section 17A.⁷ Moreover, the Commission believes that it is not inappropriate for an Exchange to require that transactions originating on its floor that might have a significant impact on market makers' financial exposure be subject to that Exchange's capital and financial responsibility rules.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁸ that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Jonathan G. Katz,
Secretary.

[FR Doc. 87-19532 Filed 8-25-87; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC—15937; 812-6647]

Application; Collateralized Mortgage Securities Corp.

August 18, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an amended order under the Investment Company Act of 1940 ("1940 Act").

Applicant: Collateralized Mortgage Securities Corporation.

Relevant 1940 Act Sections: Exemption 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. IC—14960, February 26, 1986) (the "Order") which exempted the Applicant from all provisions of the 1940 Act, to permit the issuance of variable rate bonds.

Filing Date: The application was filed on March 13, 1987 and amended on June 16, 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 September 14, 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, Park Avenue Plaza, New York, New York 10055.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Staff Attorney (202) 272-3046, or Curtis R. Hilliard, Special Counsel (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION:

Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. One hundred percent of Applicant's outstanding common stock is owned by First Boston Securities Corporation ("FBSC"). FBSC 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 to corporations, institutions, governments and international agencies on a world-wide basis. Applicant was formed as a general purpose corporation, whose primary activities include issuing Bonds collateralized by interests in mortgage-backed securities (as described below).

2. Applicant will issue series (each a "Series") of bonds (the "Bonds"), pursuant to an Indenture as supplemented by a supplemental indenture for each such Series (the "Indenture") between the Applicant and an independent trustee for the bondholders (the "Trustee"). The indenture will be subject to the

provisions of the Trust Indenture Act of 1939 or appropriately exempt therefrom.

3. 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 First Boston Mortgage Securities Corp. ("SPLITS")¹ (collectively, the "Mortgage Certificates"). In addition to the Mortgage Certificates, the Bonds may be secured by additional collateral which may include distribution and reinvestment earnings on such Mortgage Certificates and certain collection accounts and reserve funds as specified in the prospectus for a particular Series (hereinafter collectively, the "Collateral").

4. 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 unpaid principal balance of such Bonds. The Applicant will pledge to the 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 Trustee or on behalf of the Trustee by an independent custodian which will not be an affiliate of the Applicant.

¹ SPLITS issued by First Boston Mortgage Securities Corp., a wholly owned subsidiary of FBSC are similar to Stripped Mortgage Backed Securities issued by GNMA FHLMC and FNMA in that they 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 interests 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 (the "Bondholders") nor expose them to a level of risk significantly different from that present in a series of Bonds directly secured by the certificates guaranteed by FNMA, GNMA or FHLMC in which the SPLITS represent an interest.

⁷ 15 U.S.C. 78q-1 (1982). Section 17A of the Act is designed to establish a National Clearance and Settlement System to facilitate the prompt and accurate settlement of securities transactions. Among other things, section 17A requires clearing agencies, as defined in section 3(a)(23) of the Act, to register with the Commission and meet certain specified statutory criteria.

⁸ 15 U.S.C. 78s(b)(2) (1982).

⁹ 17 CFR 200.30-3(a)(12) (1986).

5. The Bonds of a Series may bear interest at fixed rates or at rates which vary in relation to an index specified in the prospectus relating to such Series of Bonds. 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 an inverse variable rate Bond. 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).

6. 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 representation 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 SEC notice by letter of any such additional mechanisms before they are utilized, in order to give the SEC an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be

adequate to ensure the accuracy of the representation and 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.

7. The Applicant 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.

8. Without the consent of each Bondholder to be affected, neither the Applicant nor the 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 rate 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 a 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 the lien of the related Indenture.

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 the Bonds sold within and outside the United States would 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 such debt securities 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 substantially 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 Based Securities, guaranteed by FNMA or issued and guaranteed by FNMA and 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 Trustee or on behalf of the 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 Applicant. 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 Applicant. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the Act.

6. So long as applicable law required, no less often than annually, an independent public accountant will audit the books and records of the Applicant. 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 Bonds in accordance with their terms. All accountant's reports with respect to payments on the Bonds will be provided to the Trustee.

B. Conditions Relating to Variable Rate Bonds

1. Each class of variable rate Bonds will have 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 a Series of Bonds will be sufficient to provide for the full and timely payment of the Bonds then outstanding, assuming maximum applicable interest rates for each specified period on variable rate Bonds. Until the Bonds of a Series are paid, no Mortgage Certificate will be released by the Trustee (except pursuant to condition A.3. above).

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 87-19537 Filed 8-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15945; 812-6693]

Application; Eaton Vance Corporate High Income Dollar Fund, L.P., et al.

August 20, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Eaton Vance Corporate High Income Dollar Fund, L.P. and Eaton Vance U.S. Government Income Dollar Fund, L.P.

Relevant 1940 Act Sections: Exemption requested under section 6(c) from section 2(a)(19).

Summary of Application: Applicants seek an order exempting each of their Managing General Partners (as defined below) and any Managing General Partner who may be elected in the future to the extent that they are deemed "interested persons" solely because they are partners of the Applicants.

Filing Date: The application was filed on April 27, 1987, and amended on August 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 September 14, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the applicants with the request, either

personally or by mail, and also send it to the Secretary of the SEC along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 24 Federal Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney (202) 272-2190 or Brion R. Thompson, Special Counsel (202) 272-3016 (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 who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Each Applicant is an open-end diversified, management investment company registered under the 1940 Act. Each Applicant is organized as a limited partnership in the State of Delaware and has been designed as a specialized investment vehicle to preserve certain tax benefits for foreign investors. Partnership interests in each Applicant are being offered exclusively to such foreign investors with the objective of earning a high level of current income free of U.S. taxes and U.S. tax-withholding requirements.

2. Each Applicant will offer a single class of partnership interests registered under the Securities Act of 1933 and the 1940 Act, and purchasers (other than general partners) will be required to become limited partners ("Limited Partners") of the Applicant in which they invest. Each Limited Partner will have the voting, approval, consent and other rights required under the 1940 Act, but consistent with the Delaware Revised Uniform Limited Partnership Act will not have the right to participate in the control of the Applicant's business.

3. Each Applicant intends to include in its contracts a provision limiting the claims of creditors to the Applicant's assets. Each Partnership Agreement of the Applicant provides for indemnification out of the Applicant's property for any Limited Partner held personally liable for any obligation of the Applicant, and provides for the Applicant to assume the defense of any claim made against any Limited Partner, for any act or obligation of the Applicant, and satisfaction of any judgment. Each Applicant will carry

insurance in such amounts as the Managing General Partners consider reasonable to cover potential liabilities of the Applicant, and the Managing General Partners will periodically review the question of the appropriateness of obtaining errors and omissions insurance for each Applicant.

4. The general partners of each Applicant consist of one corporate general partner (the "Non-Managing General Partner"), which will not take any role in management (except temporarily, in extraordinary circumstances) and a number of individual general partners (the "Managing General Partners"), who are expressly charged with the responsibility of managing such Applicant. The primary obligation of the corporate Non-Managing General Partner is to maintain, together with the Managing General Partners, a minimum one percent (1%) investment in each Applicant to ensure that each Applicant will be treated as a partnership under the Internal Revenue Code of 1986.

5. The Managing General Partners (who must be individuals) will perform the same functions as directors of a corporation or the trustees of a business trust, will act only by majority vote, and will assume all the responsibilities and obligations imposed by the 1940 Act on directors of an investment company. Limited Partners of each Applicant have the right to elect or ratify the appointment of new general partners and vote on all matters requiring shareholder action to the extent required by the 1940 Act. Limited Partners presenting 10% or more of the outstanding partnership interests of each Applicant may also call a meeting to remove any or all of the general partners. Applicants currently have seven Managing General Partners, five of whom are independent Managing General Partners (functionally equivalent to non-interested directors). Each of the independent Managing General Partners currently own less than one percent of the outstanding partnership interests of each Applicant and will not at any time own, control or hold five percent or more of such outstanding partnership interests.

6. Eaton Vance Management, Inc. ("EVM"), a Massachusetts corporation, is the corporate Non-Managing General Partner and investment adviser of each Applicant. EVM is a wholly-owned subsidiary of Eaton Vance Corp. ("EVC"). Eaton Vance Distributors, Inc., the distributor and principal underwriter for the partnership interests of each Applicant, is a wholly-owned subsidiary of EVM.

Applicants' Legal Analyses

1. All the Managing General Partners are "affiliated persons" of each Applicant, as defined in section 2(a)(3) of the 1940 Act, by virtue of being partners of each Applicant, and co-partners with EVM, the Applicant's Non-Managing General Partner and investment adviser. Thus, they may be deemed to be "interested persons" of each Applicant and its investment adviser and principal underwriter, as defined in section 2(a)(19) of the 1940 Act. Messrs. James B. Hawkes and James G. Baur, who are two of the seven Managing General Partners of each Applicant, would continue to be "interested persons" of each Applicant, its investment adviser and its principal underwriter, notwithstanding the requested exemption, because of their positions as officers and/or directors of the Applicants, EVM and EVC.

2. Applicants request that the remaining five Managing General Partners, who are the independent Managing General Partners of each Applicant, be exempted from the provisions of section 2(a)(19) of the 1940 Act to the extent that they are deemed to be "interested persons" of each Applicant and its investment adviser and principal underwriter solely because of their status as partners, and co-partners with EVM, of each Applicant. Section 2(a)(19) contains a provision that excludes those individuals who would be "interested persons" of an investment company solely by virtue of their status as directors of an investment company. However, there is no comparable provision that excludes those individuals who would be "interested persons" solely because they are general partners of the Applicant, and co-partners with EVM, the Applicant's Non-Managing General Partner and investment adviser.

3. Nevertheless, Applicants state that they have been structured so that the independent Managing General Partners are the functional equivalents of the non-interested directors of an incorporated investment company. Therefore, Applicants believe that granting the requested exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 87-19538 Filed 8-25-87; 8:45 am]
BILLING CODE 8010-01-M

[Release No. IC-15943; File No. 811-5136]

Application for Exemption; Hartford Global Fund, Inc.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicant: Hartford Global Fund, Inc. ("Fund").

Relevant 1940 Act Sections: Exemption requested under Section 8(f).

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application was filed on July 17, 1987.

Hearing on 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 September 14, 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.

ADDRESS: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Fund, P.O. Box 2999, Hartford, Connecticut 06104-2999.

FOR FURTHER INFORMATION CONTACT: Financial Analyst Margaret Warnken (202) 272-2058 or Special Counsel Lewis B. Reich (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application: the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Fund's Representatives

1. On April 29, 1987, Hartford Global Fund, Inc., filed a notification of registration on Form N-8A, and a registration statement on Form N-1A. The Fund, a validly existing Maryland corporation, is an open-end, diversified management company.

2. The registration statement on Form N-1A was never declared effective. The Fund has never made a public offering of its securities, nor does the Fund intend to make a public offering or engage in business of any kind.

3. There is one securityholder of the Fund.

4. No debts remain outstanding, and no assets have been retained by the Fund. The Fund has not within the last eighteen months transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of the Fund.

5. The Fund is not party to any litigation or administrative proceedings, and is not now engaged nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 87-19539 Filed 8-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15941; File No. 811-4597]

Application; Lincoln National Government Securities Fund, Inc.

August 19, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of proposal for order under the Investment Company Act of 1940 (the "1940 Act").

Registrant: The Lincoln National Government Securities Fund, Inc. (the "Lincoln Fund").

Relevant 1940 Act Sections: Order requested under section 8(f).

Summary of Proposal: The SEC proposes to declare by order upon its own motion that the Lincoln Fund has ceased to be an investment company.

Hearing or Notification of Hearing: If no hearing is ordered, the proposal will be granted. Any interested person may request a hearing on this proposal, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., September 14, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Send the request to the Secretary of the SEC. A copy of the request should be served personally or by mail upon the Lincoln Fund at the address stated below. Proof of service by affidavit, or, for lawyers, by certificate shall be filed with the request. 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. The Lincoln Fund, 1390 South Clinton Street, Fort Wayne, Indiana 46801.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Jeffrey M. Ulness (202) 272-3027 or Special Counsel Lewis B. Reich (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION:

Following is a summary of the proposal.

The SEC's Representations

1. The SEC states that on February 26, 1986, the Lincoln Fund, registered under the Act on Form N-8A, and filed its registration statement on Form N-1A pursuant to section 8(b) of the Act on the date. As of the date of the filing of this proposal, that registration statement pursuant to the Securities Act of 1933 has not become effective and no initial public offering of the Lincoln Fund's securities has taken place.

2. The Lincoln Fund's registration statement on Form N-1A was declared abandoned on March 18, 1987 pursuant to Rule 479 of the Securities Act of 1933, as amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 87-19540 Filed 8-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15939; File No. 811-4514]

Application; MFS Fund of Stripped Zero

August 19, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of proposal by the SEC to issue upon its own motion an Order under the Investment Company Act of 1940 (the "1940 Act").

Registrant: The MFS Fund of Stripped ("Zero") U.S. Treasury Securities, Series 1, Massachusetts Financial Services Company (the "MFS Fund").

Relevant 1940 Act Sections: Order proposed under section 8(f).

Summary of Proposal: The SEC proposes to declare by order upon its own motion that the MFS Fund has ceased to be an investment company.

Hearing or Notification of Hearing: If no hearing is ordered, the proposal will be granted. Any interested person may request a hearing on this proposal, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., September 14, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Send the request to the Secretary of the SEC. A copy of the request should be

served personally or by mail upon the MFS Fund at the address stated below. Proof of service by affidavit, or, for lawyers, by certificate shall be filed with the request. 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. The MFS Fund, 200 Berkeley Street, Boston, Massachusetts 02116.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Jeffrey M. Ulness (202) 272-3027 or Special Counsel Lewis B. Reich (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION:

Following is a summary of the proposal.

The SEC's Representations

1. The SEC states that on December 13, 1985, the MFS Fund registered under the Act on Form N-8A, and filed its registration statement on Form S-6 pursuant to section 8(b) of the Act on the date. As of the date of the filing of this proposal, that registration statement pursuant to the Securities Act of 1933 has not become effective and no initial public offering of MFS Fund's securities has taken place.

2. The MFS Fund's registration statement on Form S-6 was declared abandoned on March 18, 1987 pursuant to Rule 479 of the Securities Act of 1933, as amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 87-19542 Filed 8-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15940; File No. 811-4380]

Application; Managed Government Trust

August 19, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of proposal for order under the Investment Company Act of 1940 (the "1940 Act").

Registrant: Managed Government Trust (the "Trust")

Relevant 1940 Act Sections: Order requested under section 8(f).

Summary of Proposal: The SEC proposes to declare by order upon its own motion that the Trust has ceased to be an investment company.

Hearing or Notification of Hearing: If no hearing is ordered, the proposal will be granted. Any interested person may request a hearing on this proposal, or

ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., September 14, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Send the request, to the Secretary of the SEC. A copy of the request should be served personally or by mail upon the Trust at the address stated below. Proof of service by affidavit, or, for lawyers, by certificate shall be filed with the request. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, 450 5th Street, NW., Washington, DC 20549. The Trust, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Jeffrey M. Ulness (202) 272-3027 or Special Counsel Lewis B. Reich (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION:

Following is a summary of the proposal.

The SEC's Representatives

1. The SEC states that on August 9, 1987, the Trust registered under the Act on Form N-8A, and filed its registration statement on Form N-1A pursuant to section 8(b) of the Act on the date. As of the date of the filing of this proposal, the registration statement pursuant to the Securities Act of 1933 has not become effective and no initial public offering of Trust's securities has taken place.

2. The Trust's registration statement on Form N-1A was declared abandoned on April 2, 1987 pursuant to Rule 47a of the Securities Act of 1933, as amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 87-19541 Filed 8-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24819; File No. SR-MSE-87-05]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc., Order Approving Proposed Rule Change

The Midwest Stock Exchange Inc. ("MSE") on February 27, 1987, filed with the Commission under section 19(b) of the Securities Exchange Act ("Act") a proposed rule change concerning customer account transfers. The proposal authorizes procedures in MSE's automated customer accounts transfer system ("ACATS") for the transfer of customer accounts: (1) Between MSE

member organizations; and (2) between MSE member organizations and other self-regulatory organization members who use registered clearing agencies. The Commission published notice of the proposal in the **Federal Register** on May 5, 1987.¹ No public comments were received. This Order approves the proposal.

I. Description

The proposed MSE rule change would replace existing Rule 21 of Article VIII of MSE's Rules.² MSE's proposal generally provides that when a customer gives written notice to the customer's carrying firm to transfer an account to a designated receiving firm, both the receiving firm and the carrying firm must expedite the transfer. Moreover, once a receiving firm has received the customer's signed account transfer request form, the rule would require that the receiving firm immediately notify the carrying firm. The carrying firm generally has five business days from receipt of the transfer notice to either: (1) Validate and return the instruction with a statement reflecting the securities and money balances in the customer's account; or (2) take exception to the transfer instruction. The carrying broker would be prohibited from rejecting the account transfer request based on a dispute with the customer or the receiving firm concerning the contents of the account. Instead, the carrying firm must transfer whatever securities and money balances are shown for that customer on its records.

The proposal provides that once the carrying firm has validated the transfer instruction, the carrying firm generally has five business days to complete the transfer. If the customer's securities have not been delivered to the receiving firm within five business days, as required under the proposal, both the carrying and receiving firms must establish, as appropriate, fail to deliver or fail to receive contracts respecting the deliveries that have not occurred. At that point, the account is deemed to have been transferred, and the fail positions must be closed out within ten business days. In addition to establishing specific time frames and procedures for completing customer account transfers, the MSE rule would require that where both the carrying organization and the receiving organization are members of a registered clearing corporation that provides automated customer account

transfer facilities (*i.e.*, ACATS), the customer account transfer must be effected through those facilities.³

The proposal would authorize MSE to exempt from the provision of the rule any member, class of members, type of account, or security—either unconditionally or on a case-by-case basis. Finally, the proposal would permit MSE to impose on its member organizations a discretionary "late fee" of \$100 per account for each day that the member organization firm fails to follow the rule.

II. Discussion

The Commission believes the proposed rule change is consistent with the requirements of the Act, particularly section 6(b)(5) of the Act. Like the comparable proposals of the New York Stock Exchange ("NYSE") and the National Association of Securities Dealers ("NASD"),⁴ MSE's proposal, is designed to address weaknesses in the customer account transfer process.

MSE's proposed modifications to its Rule 21 represent a step toward assuring that customer accounts will be transferred in a timely manner. The proposed MSE rule would: (1) Establish uniform procedures and specific time frames; (2) provide increased certainty to customers that, as of ACATS settlement dates, most positions will be deemed transferred; and (3) ensure that assets and funds will be available for customers' use at the receiving firm on a timely basis. By requiring organizations to establish fail positions on their books relative to customer securities that have not been transferred within the prescribed time frames, the rule transfers the risks associated with transfer delays from customers to broker-dealers. The rule thus creates significant incentives for MSE members to transfer accounts on time, while extending traditional close-out remedies to the customer account transfer process of MSE members. Accordingly, the Commission believes that the proposal

³ ACATS provides a centralized mechanism for communicating customer account transfer information between firms involved in a transfer and automated procedures to facilitate transferring customers' assets within required time frames. In 1985, the National Securities Clearing Corporation ("NSCC") developed ACATS. See Securities Exchange Act Release No. 22481 (September 30, 1985), 50 FR 41274.

⁴ See NYSE Rule 412. See also Securities Exchange Act Rel. Nos. 22663 (November 26, 1985), 50 FR 49638; (File No. SR-NYSE-85-17) 22913 (February 14, 1986), 51 FR 6845; (File No. SR-NYSE-85-5) In February 1986, NASD adopted a substantially similar requirement in Section 65 of its Uniform Practice Code. See Securities Exchange Act Release No. 22941 (February 24, 1986), 51 FR 7170 (File No. SR-NASD-85-29). The proposed MSE rule is similar to the NYSE and NASD rules.

is well-designed to provide both timely and financially responsible transfers.

In addition, requiring the use of automated clearing agency account transfer facilities, such as ACATS, extends the benefits of such services to MSE members and their customers. Injecting centralized clearing facilities into the transfer process promotes timely delivery and receipt of communications between the receiving and delivering organizations and permits effective compliance monitoring. Also, use of an automated system should enhance efficiency and reduce expenses in account transfer processing by eliminating, for all depository-eligible securities, the manually intensive handling of certificates and related paper between the carrying and receiving broker-dealers. Thus, by assuring that customers' accounts will be transferred promptly and accurately, MSE's proposal should reduce risk, expense, and potential exposure for public customers.

Finally, the proposed rule, like NYSE Rule 412(g), would authorize MSE to impose a "fee" on its member organizations for failing to adhere to the time frames or procedures required by the rule or its interpretations. As the Commission noted in its order approving NYSE Rule 412(g), the proposed "fee" is functionally a sanction, in the nature of a disciplinary fine, for violating an exchange rule.⁵ As such, that fine must be imposed in a manner consistent with the Act.⁶ The Commission is sympathetic with the MSE's desire to act swiftly to enforce compliance and ensure that customer account transfers are not delayed unnecessarily. Accordingly, the Commission anticipates that MSE will develop and file with the Commission standards and guidelines for administrative fees. Pending a determination, if any, to file such a proposed rule change, however, the Commission expects MSE to administer any late fee under Rule 21 pursuant to the requirements of the Act governing disciplinary actions, including sections 6 and 19 of the Act.

III. Conclusion

For the reasons discussed in this Order, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

⁵ See Securities Exchange Act Rel. No. 22663.

⁶ Section 6(b)(7) of the Act requires that an exchange provide a "fair procedure for the disciplining of members." Such fairness includes bringing specific charges, providing notice of those charges, and providing an opportunity for a hearing. See section 6(d)(1) of the Act.

¹ Securities Exchange Act Release No. 24400 (April 28, 1987), 52 FR 16472.

² MSE's existing Rule 21, captioned "Customer Account-Transfer Contracts," would be deleted.

applicable to a national securities exchange.

It is therefore ordered, pursuant to section 19(b) of the Act, that the above-mentioned proposed rule change (File No. SR-MSE-87-05) be and hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: August 19, 1987.

Jonathan G. Katz,
Secretary.

[FR Doc. 87-19533 Filed 8-25-87; 8:45 am]
BILLING CODE 8010-01-M

[File No. 1-6530]

Issuer Delisting; Application to Withdraw From Listing and Registration; Oxford First Corp. (Common Stock, Par Value \$1.00)

August 19, 1987.

Oxford First Corp. ("Company"), has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw its Common Stock, Par Value \$1.00, from listing and registration on the American Stock Exchange, Inc. ("Amex"). The Company's common stock recently began trading on the New York Stock Exchange ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and the Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before September 10, 1987, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 87-19543 Filed 8-25-87; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 35-24443]

Filings Under the Public Utility Holding Company Act of 1935 ("Act"); The Southern Co. et al.

August 20, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 14, 1987 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Southern Co., et al. (70-6982)

The Southern Company ("Southern"), a registered holding company, and its wholly owned subsidiary, The Southern Investments Group, Inc. ("SIG"), 64 Perimeter Center East, Atlanta, Georgia 30346, have filed an application-declaration pursuant to sections 6(b), 9(a), 10 and 12(g) of the Act.

By order dated October 1, 1984 (HCAR No. 23440), Southern was authorized to acquire up to 75,000 common shares of Integrated Communications, Inc. ("ICS"), for an aggregate purchase price of up to \$1,650,000. Southern now proposes to acquire additional common shares of

ICS from time to time through December 31, 1992, for an aggregate purchase price up to \$2,650,000, and to transfer all its shares of ICS common stock to SIG. Southern also requests that the issuance and sale of securities by ICS from time to time to finance its operations be exempted from the requirements of Section 7 of the Act, pursuant to Section 6(b).

American Electric Power Co., Inc. (70-7440)

American Electric Power Company, Inc. ("AEP") 1 Riverside Plaza, Columbus, Ohio 43215, a registered holding company, has filed a declaration pursuant to section 12(b) of the Act and Rule 45 thereunder.

AEP proposes to guarantee the obligations of its subsidiary service company, American Electric Power Service Corporation ("Service Corporation"), under a proposed sale and leaseback transaction of a new laboratory facility ("Facility") in Groveport, Ohio which Service Corporation has constructed with a nonassociate ("Lessor"). The Lessor will purchase the Facility for approximately \$12 million and lease it to Service Corporation for an initial term of 30 years. Service Corporation's participation in the transaction is contingent upon AEP's guarantee of Service Corporation's obligations under a proposed Facility Lease and related agreements consisting of a Participation Agreement with respect to funding of the purchase of the Facility, a Tax Indemnity Agreement, and a Site Lease Agreement.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 87-19544 Filed 8-25-87; 8:45 am]
BILLING CODE 8010-01-M

[Release No. IC-15942; File No. 812-6790]

Xerox Financial Services Life Insurance Co., et al.

Date: August 20, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

Applicants: Xerox Financial Services Life Insurance Company (the "Company"), Account for Performance (the "Separate Account") and Van

Kampen Merritt Life Marketing Inc. (collectively, "Applicants").

Relevant 1940 Act Sections:

Exemption requested under section 6(c) from section 26(a) and 27(c)(2).

Summary of Application: Applicants request an exemption from sections 26(a) and 27(c)(2) of the Act to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account in connection with the issuance and sale of variable annuity contracts.

Filing Date: July 13, 1987.

Hearing or Notification: 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 request must be received by the SEC no later than 5:30 p.m., on September 15, 1987. Request a hearing in writing, giving the nature of your interest, the reasons for the request, and the issues you contest. Applicant should be served with a copy of the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or for attorneys, by certificate. Notification of the date of a hearing should be requested by writing to the Secretary of the SEC.

ADDRESS: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicant, Xerox Financial Services Life Insurance Company, 1001 Warrenville Road, Lisle, Illinois 60432.

FOR FURTHER INFORMATION CONTACT: Heidi Stam, Staff Attorney (202) 272-3017 or Lewis B. Reich, Special Counsel (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's Commercial Copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. The Company is a stock life insurance company which was originally incorporated in 1981 as Assurance Life Company, a Missouri Corporation. In 1985, the North River Insurance Company ("North River") acquired the Company from Business Men's Assurance Company. North River is a wholly-owned subsidiary of Crum and Foster, Inc., which is a wholly-owned subsidiary of Xerox Financial Services, Inc., which in turn is a wholly-owned subsidiary of Xerox Corporation.

2. The Company established the Separate Account on February 24, 1987,

pursuant to the provisions of Missouri insurance law. The Separate Account, a segregated investment account of the Company, is currently seeking registration with the SEC as a unit investment trust pursuant to the provisions of the Act.

3. The Company proposes to offer individual flexible purchase payment deferred variable annuity contracts ("Contracts") which are available for both Qualified and Non-Qualified Retirement Plans under the Internal Revenue Code. The Separate Account is divided into Sub-Accounts. Each Sub-Account is invested solely in the shares of one of the Portfolios of Van Kampen Merritt Series Trust (the "Fund"), a Massachusetts business trust currently seeking registration under the Act as a diversified open-end management investment company. The Fund is a series fund which is currently divided into four separate portfolios consisting of a quality income portfolio, high yield portfolio, growth portfolio and managed portfolio.

4. The Contracts will be distributed through Van Kampen Merritt Life Marketing Inc., a wholly-owned subsidiary of Van Kampen Merritt Inc., a subsidiary of Xerox Corporation.

5. The minimum initial purchase payment for Contracts issued pursuant to a Non-Qualified Plan is \$5,000 with minimum additional purchase payments of \$1,000. The minimum initial purchase payment for a Contract issued pursuant to a Qualified Plan is \$1,000. Subsequent purchase payments must be at least \$100.

6. Any premium taxes or other taxes payable to a state or other governmental entity will be charged against Contract values. The Company currently intends to advance any premium taxes due at the time purchase payments are made and then deduct premium taxes from Contract value at the time annuity payments begin or upon surrender if the Company is unable to obtain a refund.

7. The Company will deduct an annual Contract Maintenance Charge of \$30 from the Contract value on each Contract anniversary. This charge is to reimburse the Company for the expenses it incurs in establishing and maintaining the Contracts and the Separate Account. When the Contract is surrendered and its full surrender value, on other than the Contract anniversary, the Contract Maintenance Charge will be deducted at the time of surrender. During the annuity period, the Contract Maintenance Charge will be collected on a monthly basis and will result in a reduction of the monthly benefit. This charge has not been set at a level

greater than its cost and contains no element of profit.

8. The Contracts do not provide for a front end sales charge to be deducted from purchase payments. Instead, a total or partial withdrawal of a Contract is subject to a Contingent Deferred Sales Charge should the withdrawal exceed a free withdrawal amount equal to ten percent (10%) of all purchase payments made prior to the withdrawal. The amount of the Contingent Deferred Sales Charge is calculated by: (a) Allocating purchase payments to the amount surrendered; (b) multiplying each allocated purchase payment that has been held under the Contract for less than five (5) Contract Years by 5%; and (c) adding the products of (b) together. In no event will the aggregate Contingent Deferred Sales Charge exceed 5% of the total purchase payments made.

9. The amounts obtained from the Contingent Deferred Sales Charge will be used to pay sales commissions and other promotional or distribution expenses associated with the marketing of the Contracts, including costs associated with the printing and distribution of prospectuses, the Contracts, sales material and any other relevant information concerning the Contracts.

10. The Company proposes to assess each Sub-Account of the Separate Account with daily charges for mortality and expense risks ("Risk Charges") and administrative expenses ("Administrative Expense Charge") which amount to an aggregate of 1.40% per annum (consisting of approximately .90% for mortality risks, approximately .35% for expenses risks and .15% for administrative expenses).

11. The Administrative Expense Charge is designed to cover the shortfall in revenues from the Contract Maintenance Charge which is used to reimburse the Company for expenses incurred in the maintenance of the Contracts and the Separate Account.

12. The Company does not intend to profit from the Administrative Expense Charge. Applicants represent that this charge has been set at a level which represents the Company's administrative costs taking into account the Contract Maintenance Charge. The Administrative Expense Charge will be reduced to the extent that the amount of this charge is in excess of that necessary to reimburse the Company for its administrative expenses. Should this charge prove to be insufficient, the Company will not increase this charge and will incur the loss.

13. The mortality risk assumed by the Company arises from its contractual obligation to make annuity payments for the life of the annuitant and to waive the Contingent Deferred Sales Charge in the event of the death of the annuitant or contract owner (as applicable).

14. The expense risk assumed by the Company under the Contracts is that all actual expenses involved in administering the Contracts, including maintenance costs, administrative costs, mailing costs, data processing costs, legal fees, accounting fees, filing fees and the costs of other services may exceed the amount recovered from the Contract Maintenance Charge and the Administrative Expense Charge.

15. If the Risk Charges are insufficient to cover actual costs, the loss will be borne by the Company. Conversely, if the amount deducted proves more than sufficient, the excess will be a profit to the Company. The Company expects a profit from this charge.

16. To the extent that the Contingent Deferred Sales Charge is insufficient to cover the actual cost of distribution, the Company may use any of its corporate assets, including potential profit which may arise from the Risk Charges, to make up any difference. The Risk Charges are guaranteed by the Company and cannot be increased.

17. Applicants represent that the 1.25% total which it proposes to charge for the Risk Charges is within the range of industry practice for such charges.

18. Applicants' representations are based upon an analysis of the mortality risks (taking into consideration such factors as any contractual right to increase charges above current levels and the guaranteed annuity purchase rates), the expense risks (taking into account the existence of charges against separate account assets for other than mortality and expense risks) and the estimated costs, now and in the future, for certain product features. The Company will maintain at its principal office, available to the Commission, a memorandum setting forth in detail this analysis.

19. Applicants acknowledge that the Contingent Deferred Sales Charges may be insufficient to cover all costs relating to the distribution of the Contracts and that if a profit is realized from the Risk Charges, all or a portion of such profit may be applied to offset distribution expenses not reimbursed by the Contingent Deferred Sales Charge. In such circumstances a portion of the Risk Charges might be viewed as providing for a portion of the costs relating to distribution of the Contracts.

20. The Company has concluded that there is a reasonable likelihood that the

proposed distribution financing arrangements made with respect to the Contracts will benefit the Separate Account and the contract owners. The basis for such conclusion is set forth in a memorandum which will be maintained by the Company at its principal office and will be available to the Commission.

21. The Company represents that the Separate Account will invest only in an underlying mutual fund which undertakes, in the event it should adopt any plan under Rule 12b-1 to finance distribution expenses, to have such plan formulated and approved by a board of directors, a majority of the members of which are not "interested persons" of such fund within the meaning of section 2(a)(19) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-19545 Filed 8-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24801; File No. SR-PSE-87-14]

Self-Regulatory Organizations; Filing and Order Granting Partial Accelerated Approval to a Proposed Rule Change by the Pacific Stock Exchange Inc.; Conformity With the Uniform Code of Arbitration.

The Pacific Stock Exchange, Incorporated ("PSE") submitted on April 28, 1987, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78(b)(1) and Rule 19b-4 thereunder to amend various provisions of PSE Rule XII (Arbitration) to bring them into conformity with amendments to the Uniform Code of Arbitration ("UCA") which were adopted by the Securities Industry Conference on Arbitration ("SICA").¹

The proposed rule change would amend section 2 of PSE Rule XII ("Rule") to increase both the jurisdictional limit and filing fees for small claim proceedings. The proposed amendments would raise the jurisdiction limit for small claims proceedings from \$2,500 to \$5,000 and replace the \$15 flat

¹ The Uniform Code of Arbitration was developed by SICA in November 1968. The UCA provides Uniform Arbitration Procedures throughout the securities industry and is implemented by various national securities exchanges. SICA is a securities industry association composed of representatives of the National Association of Securities Dealers, Inc. ("NASD"), nine other self-regulatory organizations, four public members, and the Securities Industry Association.

filing fee with a graduated filing fee based on the amount of the claim. Under the proposal, there would be a \$15 fee for claims of \$1,000 or less, \$25 for claims of more than \$1,000 but less than \$2,500, and \$100 for claims between \$2,500 and \$5,000.

The Amendment to section 4 of the Rule would increase the statute of limitations for filing claims from three to six years. In addition, the proposed rule change would amend section 4 to preclude the six year time limitation from barring the submission of a claim, to arbitration where the claim is ordered to arbitration by a court of competent jurisdiction. Further, the proposed amendments to section 7 would, where permitted by law, toll the statute of limitations for legal proceedings when the claimant(s), rather than all parties to the proceedings, files an arbitration agreement. The six year statute of limitations also will be tolled if the parties submit the claim to the court's jurisdiction.

Amended section 8(b) of the Rule would provide that for member to member controversies involving \$5,000 or less the panel of arbitrators will consist of one member. For all other member controversies, the panel shall consist of three members.²

Section 10 would be amended to allow each party one preemptory challenge to the panel's composition in all cases, including arbitrations where there are multiple parties (i.e., multiple Claimants, Respondents, and/or Third Party Respondents). In arbitrations with multiple claimants, however, the Director of Arbitration can grant additional preemptory challenges if it is in the "interest of justice." The amendment also makes clear that there would be unlimited challenges for cause.

The amendment to section 13 would give the arbitrators discretion to bar a Respondent, Responding Claimant, Cross-Claimant, or Third Party Respondent from presenting any facts or defense at the arbitration proceeding if that party only pleads a general denial in his Answer.³ Further, the amendment would permit the arbitrators, within their discretion, to bar a Respondent from presenting any facts or defenses at the arbitration hearing if they have not

² Under the existing rule, member controversies involving \$500 or more requires a three-member arbitration panel.

³ Currently, according to the PSE, the Claimant has the burden to specify the relevant facts in an arbitration hearing. The Respondent, although required to designate all available defenses in his Answer, frequently limits his written defense to a general denial and waits for the hearing to disclose his actual defense(s).

been included in the Answer and the arbitrators believe that these facts are relevant and the defenses were available at the time the Answer was filed. Finally, section 13(c) would be amended to permit the Director of Arbitration to determine preliminarily whether multiple Claimants, Respondents, or Third Party Respondents should proceed in the same or separate arbitration proceedings.

Under amended section 27, a party would be permitted to amend its pleading, as a matter of right, prior to the appointment of an arbitration panel, and, subsequently, only if in response to an amended pleading or with the consent of the arbitration panel.

Finally, the Exchange proposes to revise its schedule of arbitration fees. The required deposit fee for claims of \$1,000 or less would be reduced from \$100 to \$15. Similarly, the fee for claims of \$1,000 but less than \$2,500 would be reduced from \$100 to \$25 while the fee for claims between \$2,500 and \$5,000 would remain the same at \$100. There would be no change in the \$200 fee for claims above \$5,000, but less than \$10,000. Where the amount in controversy exceeds \$10,000 but is less than \$20,000, the fee would be increased from \$250 to \$300. For controversies involving an amount greater than \$20,000 but less than \$100,000 the fee would be increased from \$350 to \$500. The fee for all other claims above \$100,000 would be \$750 (the current maximum fee is \$550).⁴

The amendments would also permit the arbitrators to assess forum fees for any controversy settled or withdrawn.

Discussion

As noted above, SICA substantially revised the UCA to reflect trends and developments which had occurred in the securities industry several years earlier. Four stock exchanges and the NASD have since amended their arbitration rules to bring them into conformity with the UCA amendments. These changes ensure a degree of uniformity in arbitration proceedings among the self-regulatory organizations. ("SRO's")⁵

⁴ The proposal also increased the maximum forum fees that can be charged to the parties.

⁵ The four stock exchanges are the New York Stock Exchange, Inc. ("NYSE"), the American Stock Exchange, Inc. ("Amex"), the Midwest Stock Exchange Incorporated ("MSE"), and the Chicago Board of Options Exchange, Inc. ("CBOE"). See Securities Exchange Act Release Nos. 21295 (September 7, 1984) 49 FR 36040 (SR-NASD-84-16); 21542 (December 6, 1984) 49 FR 48403 (SR-84-20); 21476 (November 9, 1984) 49 FR 45687 (SR-CBOE-84-6); and 21506 (November 20, 1984) 49 FR 46857 (SR-MSE-84-6).

The PSE has indicated in its filing that the purpose of the proposed rule change is to amend its arbitration rules to reflect the amendments to the UCA developed by SICA and adopted by the other SROs.

The proposed amendments to the Rule are identical to the SICA amendments to the UCA and the conforming amendments adopted by the other SROs with the exception. There is currently no provision in the UCA that provides for a one member panel in member controversies involving small claims.⁶ As noted above, under existing section 8(b), the dollar amount involved in the member controversy determines the number of arbitrators that will hear the claim. Presently, all controversies involving \$500 or more require a three person arbitration panel to resolve the controversy. The Exchange proposes to increase the threshold dollar amount, required before a claim will be heard by a panel of three arbitrators, from \$500 to \$5,000, a tenfold increase. The net result of this change would be that an increased number of member controversies would be heard by one arbitrator rather than by three.

The Exchange indicates in its filing that adoption of this amendment would reduce its cost in providing a forum for arbitration by reducing the number of honoraria paid as well as facilitate arbitration hearings scheduling.

Request For Comments

Because the securities industry has experienced developments in arbitration since the Commission last approved proposals similar to the PSE's proposed revisions to section 8(b), the Commission believes that the public should have the opportunity to comment on the proposed changes to section 8(b).

Commentators may wish to focus on, and discuss the potential impact, if any, of the proposed change to section 8(b) of the Rule on member controversies because if the amendment is approved more of these claims will be heard by single arbitrator.

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

⁶ Both the NYSE and the Amex have adopted provisions in their arbitration rules that provide for a one member panel where the amount in controversy in member to member disputes is less than \$10,000.

amendments, all written statements with request to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to the file number in the caption above and should be submitted by September 16, 1987.

Conclusion

The Commission finds the approval of all portions of the proposed rule change, with exception of section 8(b) concerning member controversies, are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular, the requirements of section 6(b)(4) requiring that national securities exchanges provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities, and 6(b)(5) requiring that the rules of an exchange promote just and equitable principles of trade and protect investors and the public interest in that they provide a forum for the resolution of securities disputes.

The Commission finds good cause for approving all amendments, except those affecting section 8(b), prior to the thirtieth day in that the Commission has on prior occasions approved similar amendments submitted to the Commission by the NASD, NYSE, Amex, MSE, and CBOE. Further, approval of the proposed rule change would ensure uniformity among self-regulatory organizations arbitration procedures.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change, be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Dated August 14, 1987.

Jonathan G. Katz,
Secretary.

[FR Doc. 87-19534 Filed 8-25-87; 8:45 am]

BILLING CODE 8010-01-M

⁷ 17 CFR 200.30-3.

[Release No. 34-24820; File No. SR-Phlx-87-4]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc.; Establishment of Standards for the Operation of a System of Alternate Specialists

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, the Philadelphia Stock Exchange, Inc. ("Phlx") submitted, on March 2, 1987, copies of a proposed rule change to adopt a system of rules to establish formal standards for the operation of an alternate specialist system. The rules are intended primarily to establish the financial obligations and trading responsibilities that a member must satisfy in order to qualify as an alternate specialist.

Notice of the proposed rule change, together with its terms of substance, was given by the issuance of a Commission release (Securities Exchange Act Release No. 24446, May 12, 1987) and by publication in the *Federal Register* (52 FR 19002, May 20, 1987). No comments were received regarding the proposal.

The proposed Phlx alternate specialist system is intended to add depth and liquidity to the Phlx equity markets by bringing added capital into the Exchange's specialist system. During periods of unusual or heavy trading in an issue, an alternate specialist may be called in by the specialist or a Floor Official. As with alternate specialist systems on other regional exchanges,¹ the alternate specialist is already present on the floor as a specialist in other issues traded on the exchange. To qualify as an alternate specialist, a Phlx member must meet the same financial requirements as other Phlx specialists.²

¹ The proposed Phlx alternate specialist system is substantially similar to alternate specialist systems on other regional exchanges. See, e.g., Midwest Stock Exchange Article XIV.

² See proposed Phlx Rule 201A.(a). The proposed Phlx Rule provides that the Exchange's Allocation, Evaluation and Securities Committee shall ensure that an alternate specialist applicant substantially meets the same financial adequacy standards as equity specialists and options specialists. See also letter from William W. Uchimoto, Vice President, Phlx, to Stephen Luparello, Staff Attorney, Division of Market Regulation, SEC, dated July 22, 1987. Although the rule is broad enough to allow either equity or options specialists to be appointed alternate specialists, the Exchange, at this time, intends to limit the application of the rule to equity specialists. See telephone conversation between William W. Uchimoto and Stephen Luparello, August 14, 1987.

Once an applicant qualifies, the Allocation, Evaluation and Securities Committee will assign one or more equity issues to the alternate specialist, following consultation with the Floor Procedure Committee. However, no alternate specialist may be assigned an issue in which he or any affiliated person, or the member organization with which the alternate is affiliated, is a specialist or registered options trader in an option overlying the equity issue.³

The proposed rules also impose "negative" and "affirmative" trading obligations on the alternate specialist, pursuant to Section 11 of the Act and the rules thereunder.⁴ Consistent with its trading obligations under the Act to maintain a fair and orderly market, an alternate specialist is required under the rules to execute all orders in his assigned security, and, after having been called in by a floor official or the equity specialist, to establish a bid or offer in his assigned security at the request of a floor broker.⁵ Proposed Rule 202A.(e) gives the Floor Procedure Committee authority to specify the percentage of an alternate specialist's volume that must be in his specialty stock.⁶ Further, except under unusual circumstances, an alternate specialist is prohibited from initiating a transaction in an assigned stock from off the floor. The rules permit alternate specialists as a group to participate in the opening of any security on the Exchange with respect to

³ See proposed Phlx Rule 201A.(b). See also proposed Phlx Rule 201A.01, which notes that the Committee may also consider the assignment factors set forth in Phlx Rule 501(b).

⁴ 15 U.S.C. 78k. Generally, section 11(b) of the Act governs specialist rights and obligations. In particular, however, Rule 11b-1(a)(2) under the Act provides that the rules of an exchange concerning specialist registration must include provisions on the following: (1) Minimum capital requirements; (2) requirements that the specialist engage in a course of dealing for his own account that will assist in the maintenance of a fair and orderly market and that substantial, continued failure to meet these requirements will result in suspension or cancellation of the specialist's registration in his specialty stock(s); (3) provisions restricting the specialist's dealings to those necessary to maintain a fair and orderly market or to act as an odd-lot dealer; (4) provisions stating the responsibilities of the specialist as broker; and (5) procedures for the effective and systematic surveillance of specialist activities. According to the Phlx rules, an alternate specialist is a specialist as envisioned by section 11 of the Act.

⁵ See proposed Phlx Rule 202A.11. Rule 202A.11 provides that the alternate specialist may only participate pursuant to a request by the specialist or a Floor Official.

⁶ Initially, the Phlx has determined that 50% of an alternate specialist's volume (excluding all volume done as a specialist) must be in assigned stocks. Further, in a situation in which the alternate specialist is called in to participate in trading in an issue to which he is not assigned, the resulting volume will be counted toward the 50% requirements. See proposed Phlx Rule 202A.03.

any net imbalance following specialist participation.⁷ Consistent with its stated purpose of adding liquidity to the market, the rules also mandate that an alternate specialist must accept and guarantee all 100 share agency orders in his assigned stock that are not accepted by the specialist.⁸

The Commission believes the Phlx alternate specialist system should achieve its intended purposes of adding depth and liquidity to the market, while conforming to the requirements of the Act and providing for the protection of investors. In particular, the rules conform to section 11(b) of the Act, and Rule 11b-1(a)(2) thereunder, by ensuring minimum capital requirements. The rules are also structured to ensure that alternate specialist trading contributes to the maintenance of a fair and orderly market. Specifically, the Commission views as important the provisions requiring the alternate specialist to establish a bid and offer in assigned stocks; restricting him from making off-floor transactions in assigned stocks; and providing a guarantee for all 100 share market orders. The Commission believes that these rules will assist the Phlx in ensuring that alternate specialist trading will be beneficial to investors and the market in general. Finally, by providing that the alternate specialist is a specialist as envisioned by section 11 of the Act, Phlx specialist compliance and surveillance rules will also apply to its alternate specialist system.⁹

Accordingly, the Commission believes that the proposed rule changes are in accordance with section 6(b)(5) of the Act. The capital that will be introduced in the market by the alternate specialist system should help to increase depth and liquidity in Phlx traded stocks, should facilitate transactions in securities, and help foster a free and open market. Further, the financial requirements imposed on alternate specialists are also consistent with the intent of that section, in that they will protect investors, and the public interest generally, by requiring alternate specialists to be adequately capitalized. The Commission therefore 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.

⁷ See proposed Phlx Rule 202A.06.

⁸ See proposed Phlx Rule 202A.07. In executing the transaction, the alternate specialist must guarantee execution at the best consolidated quote system bid on a sell order, and the best consolidated quote system offer on a buy order.

⁹ See proposed Phlx Rule 202A.(b).

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 19, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-19535 Filed 8-25-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: August 20, 1987.

The Department of Treasury has made revisions and resubmitted 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 regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0214.

Form Number: 5695.

Type of Review: Resubmission.

Title: Residential Energy Credit Carryforward.

Description: This form is used by individual taxpayers to claim any unused residential energy credit carryforward the taxpayer may have from previous tax years.

Respondents: Individuals or households.

Estimated Burden: 20,755 hours.

OMB Number: 1545-0930.

Form Number: 8396.

Type of Review: Resubmission.

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 section 163(g) provides that the interest deduction on Schedule A will be reduced by the credit.

Respondents: Individuals or households.

Estimated Burden: 2,451 hours.

Clearance Officer: Garrick Shear, (202) 535-4297, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503. Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-19514 Filed 8-25-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: August 20, 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: 1545-0203.

Form Number: 5329.

Type of Review: Extension.

Title: Return for Individual Retirement Arrangement and Qualified Retirement Plans Taxes.

Description: This form is used to compute and collect taxes related to distributions from individual retirement arrangements (IRAs) and other qualified plans. These taxes are excess contributions to an IRA, premature distributions from an IRA, and other qualified retirement plans excess accumulations in an IRA and excess distributions from qualified retirement plans. The data is used to help verify that the correct amount of tax has been paid.

Respondents: Individuals or households.

Estimated Burden: 113,059 hours.

Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management

and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-19515 Filed 8-25-87; 8:45 am]

BILLING CODE 4810-25-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 a reinstatement 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.

Dated: August 20, 1987.

By direction of the Administrator.

John J. McKenna,

Acting Director, Office of Systems Planning, Policy and Acquisition Control.

Reinstatement

1. Office of the General Counsel
2. Application for Accreditation as Service Organization Representative
3. VA Form 2-21
4. This information is needed to enable the VA to determine eligibility for accreditation as representative of a recognized service organization.
5. On occasion
6. Individuals or households
7. 1,100 responses
8. 275 hours
9. Not applicable

Extension

- 1. Department of Veterans Benefits
- 2. Pension Claim Questionnaire for Farm Income
- 3. VA Form 21-4165
- 4. This information is required to determine veterans and dependents eligibility for payment of pension benefits.
- 5. On occasion
- 6. Individuals or households
- 7. 25,000 responses
- 8. 12,500 hours
- 9. Not applicable

Revision

- 1. Department of Veterans Benefits
- 2. Notice of Default
- 3. VA Form 26-6850
- 4. This information is provided by holders of guaranteed or insured loans

when default occurs by reason of nonpayment. This notification sets forth collection procedures for clearing the debt.

- 5. On occasion
- 6. Businesses or other for-profit
- 7. 85,192 responses
- 8. 14,199 hours
- 9. Not applicable
- 1. Department of Veterans Benefits
- 2. VA Application for Home Loan Guaranty
- 3. VA Form 26-1802a
- 4. This is joint form used by VA, HUD and FMHA to determine eligibility of potential home buyers for guaranty of home loans.
- 5. On occasion
- 6. Individuals or households; Businesses or other for-profit
- 7. 400,000 responses

- 8. 313,333 hours
- 9. Not applicable

Extension

- 1. Department of Veterans Benefits
- 2. Status of Loan Account—Foreclosure or Other Liquidation
- 3. VA Form Letter 26-567
- 4. This information is obtained from holders of loans in foreclosure and is needed to determine what amount to bid at the foreclosure sale.
- 5. On occasion
- 6. Businesses or other for-profit; and Small businesses or organizations
- 7. 41,800 responses
- 8. 20,900 hours
- 9. Not applicable

[FR Doc. 87-19566 Filed 8-25-87; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 52, No. 165

Wednesday, August 26, 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 HOME LOAN BANK BOARD

TIME AND DATE: At 8:00 a.m., Friday, August 28, 1987.

PLACE: In the Board Room, 6th Floor, 1700 G Street, NW., Washington, DC.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE

INFORMATION: Ms. Gravlee (202-377-6679).

MATTERS TO BE CONSIDERED:

Amendments to FSLIC regulations concerning insurance premiums, new regulations for financing corporation assessments in addition to FSLIC assessments, and book-entry procedure for financing corporation securities.

No. 9, August 24, 1987.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 87-19630 Filed 8-24-87; 12:12 pm]

BILLING CODE 6720-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

August 19, 1987.

TIME AND DATE: 10:00 a.m., Thursday, August 27, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

MATTERS TO BE CONSIDERED: In addition to the previously announced items, the Commission will consider and act upon the following:

3. *Austin Power, Inc.*, Docket No. CENT 86-40, 86-59-R, etc. (Issues include whether Austin Power violated 30 CFR 77.1607(g) and 30 CFR 77.1710(g) and, if so, whether the violations were significant and substantial, and the civil penalty assessments were proper.)

4. *Local Union 2274, District 28, UMWA v. Clinchfield Coal Co.*, Docket No. VA 83-55-C. (Issues include the consideration of a petition for discretionary review.)

It was determined by a unanimous vote of Commissioners that these items be discussed in closed session.

CONTACT PERSON FOR MORE

INFORMATION: Jean H. Ellen, (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87-19626 Filed 8-24-87; 11:18 am]

BILLING CODE 6735-01-M

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., September 14, 1987.

PLACE: On board MV MISSISSIPPI at foot of Eighth Street, Cairo, IL.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in Memphis District.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Rodger D. Harris, telephone 601-634-5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 87-19663 Filed 8-24-87; 1:39 pm]

BILLING CODE 3710-GX-M

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., September 15, 1987.

PLACE: On board MV MISSISSIPPI at City Front, vicinity of Beale Street, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; and (2) views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Rodger D. Harris, telephone 601-634-5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 87-19664 Filed 8-24-87; 1:39 pm]

BILLING CODE 3710-GX-M

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 3:30 p.m., September 16, 1987.

PLACE: On board MV MISSISSIPPI at City Front, foot of Crawford Street, Vicksburg, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in Vicksburg District.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Rodger D. Harris, telephone 601-634-5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 87-19665 Filed 8-24-87; 1:39 am]

BILLING CODE 3710-GX-M

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., September 18, 1987.

PLACE: On board MV MISSISSIPPI at City Front, Morgan City, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in New Orleans District.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Rodger D. Harris, telephone 601-634-5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 87-19666 Filed 8-24-87; 1:39 pm]

BILLING CODE 3710-GX-M

Corrections

Federal Register

Vol. 52, No. 165

Wednesday, August 26, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 994

[Docket No. EMO-1]

Egg Marketing Order; Establishment of Programs Relating to Research, Consumer Education, and Advertising

Correction-

In proposed rule document 87-18124 appearing on page 29531 in the issue of Monday, August 10, 1987, make the following corrections on that page:

1. In the first column, under **SUPPLEMENTARY INFORMATION**, in the eighth line insert "member to administer programs and projects relating to" after the word "public".

2. In the second column, in the first complete paragraph, in the ninth line, the date should read "December 16, 1985".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. 70470-7070]

Electronic Data Dissemination Policies and Guidelines

Correction

In notice document 87-19056 beginning on page 31442 in the issue of Thursday, August 20, 1987, make the following corrections:

1. On page 31443, in the first column, under **SUPPLEMENTARY INFORMATION**, in the second paragraph, in the sixth line, "not will" should read "not nor will".

2. On the same page, in the second column, under **Background**, in the fourth paragraph, in the fifth line, "relected" should read "selected".

3. On the same page, in the third column, in the fourth line, "patent" should read "patents".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42065B; FRL-3223-9]

2-Ethylhexanoic Acid; Technical Modification

Correction

In rule document 87-14673 beginning on page 24157 in the issue of Monday, June 29, 1987, make the following correction:

§ 799.1650 [Corrected]

On page 24158, in the first column, in § 799.1650(c)(3), in the fifth line, "§ 795.233(c)(2)(ii)(C)" should read "§ 795.223(c)(2)(ii)(C)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regs. No. 16]

Pension Funds for Deeming Purposes and Grandfathering Provisions

Correction

In rule document 87-18310 beginning on page 29840 in the issue of Wednesday, August 12, 1987, make the following correction:

§ 416.1202 [Corrected]

On page 29841, in the second column, in § 416.1202(a), in the 14th line, insert "also" after "are".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-39468; OR-943-07-4220-11; GP-07-247]

Realty Actions; Conveyance of Public Land; Order Providing for Opening of Land; Oregon

Correction

In notice document 87-18459 appearing on page 30259 in the issue of Thursday, August 13, 1987, make the following correction:

In the third column, in the 16th line, "20° 19' 14"" should read "28° 19' 14"".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-87-19]

Petition for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

Correction

In notice document 87-18770 beginning on page 30989 in the issue of Tuesday, August 18, 1987, make the following correction:

On page 30990, in the second column, under **DATE**, in the last line, the date should read "September 7, 1987".

BILLING CODE 1505-01-D

Registered Federal Reporter

Wednesday
August 26, 1987

Part II

Department of the Treasury

Internal Revenue Service

26 CFR Part 1

Foreign Tax Credit; Application of
Section 904 to Income Subject to
Separate Limitations; Notice of Proposed
Rulemaking and Public Hearing

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL-931-86]

Foreign Tax Credit; Application of Section 904 to Income Subject to Separate Limitations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations and a notice of a public hearing relating to the application of section 904 with respect to income received or accrued by a taxpayer consisting of income described in section 904 (d). These proposed regulations are necessary because of the changes made to the applicable law by the Tax Reform Act of 1986. The regulations would provide the public with guidance needed to comply with that act and would affect individuals and entities claiming the foreign tax credit.

DATES: Written comments and/or requests to appear at a public hearing scheduled for November 12, 1987 must be delivered or mailed by October 26, 1987. The amendments are proposed generally to be effective for taxable years beginning after December 31, 1986. Paragraph (c)(2) of § 1.904-6 applies to taxable years beginning after December 31, 1987.

ADDRESS: Send comments and requests to appear at the public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (INTL-931-86), Washington, DC 20224. The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Marnie J. Carro or Carolyn M. DuPuy of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T) (202-566-3499).

SUPPLEMENTARY INFORMATION:**Background**

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 904 of the Internal Revenue Code of 1954. These amendments are proposed to provide regulations under

section 904 (d) which was amended by section 1201 of the Tax Reform Act of 1986 (Pub. L. 99-514).

Prior Law

Prior to 1987, the foreign tax credit limitation was generally determined in the following manner: The taxpayer totaled its net income and net losses from all sources outside the United States and calculated one aggregate limitation based on the total. Separate foreign tax credit limitations were calculated, however, for certain categories of income that bore high or low rates of foreign tax or that could easily be earned in low-tax countries rather than in the United States. For example, section 904 (d)(3) provided that dividends, interest, or subpart F income earned or accrued by a United States person that was attributable to certain types of passive interest income earned by the payor would be subject to a separate foreign tax credit limitation. This separate limitation prevented taxpayers from inflating their foreign tax credit limitation by averaging low-taxed interest income with high-taxed active business income and thereby distorting the foreign tax credit.

Statutory Provision

Section 1201 of the Tax Reform Act of 1986 (the Act) amends section 904 (d) by replacing the separate limitation for interest income with a separate limitation for passive income generally. In addition, the Act requires that a taxpayer calculate a separate foreign tax credit limitation for financial services income, high withholding tax interest, shipping income, and dividends from each noncontrolled section 902 corporation. This discussion incorporates changes to the Act proposed in the Technical Corrections Act of 1987.

Section 904 (d)(2)(A) defines passive income as any income received or accrued by any person that is of a kind that would be foreign personal holding company income, as defined in section 954 (c). Passive income also includes any amount includible in gross income under section 551 or section 1293. Passive income does not include any income that is defined under section 904 (d) as high withholding tax interest, financial services income, shipping income, or dividends from a noncontrolled section 902 corporation. In addition, passive income does not include any high-taxed income, any export financing interest, or any foreign oil and gas extraction income.

Section 904 (d)(2)(B) defines income as high withholding tax interest if the interest is subject to a foreign

withholding tax and the rate of the tax applicable to such income is at least 5 percent. High withholding tax interest, like passive income, does not include export financing interest.

Section 904 (d)(2)(C) defines financial services income as certain income that is derived by a person that is predominantly engaged in the active conduct of a banking, insurance, financing, or similar business. Financial services income also includes income that would otherwise be passive income or shipping income. Section 904 (d)(2)(C)(iii) excludes export financing interest, high withholding tax interest, and dividends from a noncontrolled section 902 corporation from the definition of financial services income.

Section 904 (d)(2)(D) defines shipping income as any income of a kind that would be foreign base company shipping income, as defined in section 954 (f). Shipping income does not include dividends from a noncontrolled section 902 corporation of financial services income.

Section 904(d)(2)(E) defines a noncontrolled section 902 corporation as any foreign corporation in which the taxpayer meets the stock ownership requirements of section 902(a) or section 902(b). However, a controlled foreign corporation (CFC) will not be treated as a noncontrolled section 902 corporation with respect to periods when it was a CFC. A special rule is provided that limits the amount of foreign taxes available for credit under section 902 if the tax is attributable to high withholding interest received or accrued by a noncontrolled section 902 corporation.

Section 902(d)(2)(F) defines high-taxed income. As stated above, high-taxed income is specifically excluded from the definition of passive income. Under section 904(d)(2)(F), passive income will be considered to be high-taxed income (and, therefore, not passive income) if the sum of the foreign taxes paid and deemed paid by the taxpayer with respect to that income exceeds the highest rate of United States tax multiplied by the amount of such income. The high-tax "kick-out" applies after allocation of expenses at the taxpayer level.

Section 904(d)(2)(G) defines export financing interest. As stated above, export financing interest is specifically excluded from the definitions of passive income, high withholding tax interest, and financial services income. Export financing interest is defined as interest derived from financing the sale (or other disposition) for use or consumption outside the United States of any

property that is manufactured, produced, grown, or extracted in the United States by the interest recipient or a related person, and not more than 50 percent of the fair market value of which is attributable to products imported into the United States.

Section 904(d)(3) (A), (B), (C), and (D) provides that dividends, interest, rents, or royalties received or accrued by a United States shareholder from a CFC will be treated as income subject to a separate limitation to the extent that the income of the payor is itself subject to one or more of the separate limitations. Subpart F inclusions are also subject to this look-through rule. A special look-through rule is provided with respect to interest payments made by a CFC to a United States shareholder or to a CFC related to a United States shareholder. Section 954(b)(5) is amended to provide that any interest paid or accrued by a CFC to any United States shareholder (or to any CFC related to such shareholder) shall be allocated first to foreign personal holding company income which is passive income. Therefore, these interest payments will be considered to be attributable to passive income of the CFC for purposes of the look-through rule on interest.

Section 904(d)(3)(E) provides that, if a CFC is considered to have no subpart F income for the taxable year pursuant to the de minimis rule provided in section 954(b)(3)(A), none of its income for such taxable year shall be treated as income in a separate category. For purposes of applying the dividend look-through rule, passive income of a CFC that meets the requirements of section 954(b)(4) (the taxpayer establishes that the income was subject to a high rate of foreign tax) will not be considered to be income subject to a separate category.

Section 904(d)(3)(H) provides that the look-through rules will not apply to an interest payment that is subject to a high withholding tax if the payment would be allocable under the look-through rules to financial services income of a controlled foreign corporation.

Explanation of Proposed Regulations

The proposed regulations incorporate changes proposed to be made to the Tax Reform Act of 1986 by the Technical Corrections Act of 1987.

Section 1.904-6 (a) provides that a taxpayer must compute a separate foreign tax credit limitation for income within each of the following separate limitations: (1) Passive income, (2) high withholding tax interest, (3) financial services income, (4) shipping income, (5) dividends from each noncontrolled section 902 corporation, (6) DISC dividend income, (7) foreign trade

income, (8) FSC income, and (9) general limitation income.

Section 1.904-6(b)(1) defines the term "passive income." Paragraph (b)(2)(i) provides rules for determining whether rents or royalties are derived in the active conduct of a trade or business. A special rule is provided for certain affiliated corporations. Paragraph (b)(2)(ii) provides rules for determining whether certain types of royalties derived by a CFC will be treated as general limitation income for purposes of the look-through rules.

Section 1.904-6(c)(1) provides rules for determining whether an item of income that is otherwise passive income is high-taxed income and, therefore, should be treated as general limitation income. Paragraph (c)(2) provides grouping rules for purposes of determining whether an item of passive income is high-taxed income. The grouping rules are proposed to be effective for taxable years beginning after December 31, 1987. See Notice 87-6, 1987-3 I.R.B. 8, for the grouping rules for taxable years beginning after December 31, 1986 and before January 1, 1987. Paragraph (c)(3) provides rules relating to the determination of whether an amount included in gross income under section 951(a) is high-taxed income if additional taxes are paid or deemed paid in the year of receipt of this income. Taxpayers are invited to comment on the appropriate treatment of a change in the effective tax rate on an inclusion due to a difference between the amount of tax accrued and the amount actually paid.

The proposed regulations do not address the application of the rules in paragraph (c) to gains and losses resulting from a change in the effective rate of tax because of exchange rate fluctuations between the time an amount is included in the gross income of a United States shareholder of a controlled foreign corporation under section 951 and the distribution to the United States shareholder of earnings attributable to that amount. For example, if passive income is treated as general limitation income in the year of inclusion because it is high-taxed income, a currency gain in the year of distribution arguably affects the effective rate of tax on the inclusion amount and therefore would require a redetermination of the character of the inclusion. As another example, if passive income is not treated as general limitation income in the year of inclusion because it is not high-taxed income, a currency loss in the year of distribution arguably affects the effective rate of tax on the inclusion amount and therefore would require a

redetermination of the character of the inclusion. Paragraph (c) also does not address the appropriate treatment of exchange gain or loss with respect to remittances from branches and from other entities subject to the look-through rules. Taxpayers are invited to comment on the appropriate treatment in these cases and other related cases.

Paragraph (c)(4) provides special rules for determining whether income that has been taxed under an integrated tax system is high-taxed income. Taxpayers are invited to comment on the application of this rule to cases in which the foreign tax system does not provide a mechanism for tracing distributions out of a particular year's earnings.

Section 1.904-6(d) defines the term "high withholding tax interest." High withholding tax interest does not include any interest described as export financing interest.

Section 1.904-6(e)(1) defines the term "financial services income." Paragraph (e)(2) describes income derived in the active conduct of a banking, insurance, financing, or similar business which relates to the definition of financial services income and the definition of a financial services entity. Paragraph (e)(3)(i) provides a definition of a financial services entity. Paragraph (e)(3)(ii) provides a special rule for affiliated groups. Paragraph (e)(3)(iii) provides a rule for treatment of partnerships and other pass-through entities. Paragraph (e)(4) describes incidental income that will be considered to be financial services income if earned by a financial services entity. Paragraph (e)(5) describes income that is excluded from the definition of financial services income.

Section 1.904-6(f) defines the term "shipping income." Shipping income does not include dividends received from a noncontrolled section 902 corporation or financial services income.

Section 1.904-6(g)(1) defines the term "noncontrolled section 902 corporation." Paragraph (g)(2)(i) provides a rule for the treatment of dividends from noncontrolled section 902 corporations. Paragraph (g)(2)(ii) provides a special rule for determining whether a controlled foreign corporation owns stock in a noncontrolled section 902 corporation. Paragraph (g)(2)(iii) provides rules relating to dividends from a noncontrolled section 902 corporation that are attributable to high withholding tax interest earned by the corporation. Paragraph (g)(3) provides a rule for the treatment of dividends from a CFC attributable to a period when the CFC was neither a CFC nor a noncontrolled section 902 corporation.

Section 1.904-6(h)(1) defines the term "export financing interest." Paragraph (h)(4)(i) provides that export financing interest that is also related person factoring income (within the meaning of section 864(d)(1)) shall be subject to a taxpayer's passive limitation unless the taxpayer is a financial services entity. If the taxpayer is a financial services entity, such income will be subject to the separate limitation for financial services income. Paragraph (h)(4)(iii) provides that income derived from factoring receivables that is not considered to be related person factoring income under section 864(d)(1) because it is income described in section 864(d)(7) (income on a trade or service receivable acquired from a related person in the same foreign country as the recipient) will be treated in the same manner as interest income that is excepted from related person factoring treatment because of the same country exception. This income shall be treated as general limitation income unless the income is earned by a financial services entity. If the income is earned by a financial services entity, it will be subject to the separate limitation for financial services income.

Section 1.904-6(i) provides rules relating to the interaction of section 907 (c) (oil and gas income) and income described in the separate limitations.

Section 1.904-6(j) provides priority rules in the case of income that meets the definitions of more than one category of separate limitation income.

Section 1.904-7 provides look-through rules for CFCs and other entities.

Paragraph (a)(1) defines the term "separate category" of income.

Paragraph (a)(2) defines the term "controlled foreign corporation."

Paragraph (a)(3) defines the term "United States shareholder."

Section 1.904-7(b) provides that dividends, interest, rents, and royalties received or accrued by a taxpayer from a controlled corporation will be general limitation income unless under the look-through rules they are allocated or attributable to another separate category of income.

Section 1.904-7(c)(1) provides for look-through treatment of section 951 (a)(1)(A) inclusions. Paragraph (c)(2)(i) provides that interest that is received or accrued from a CFC in which the taxpayer is a United States shareholder shall be treated as income in a separate category to the extent it is allocable to income of the CFC in that category. Paragraph (c)(2)(ii) provides rules for allocating expenses of a CFC to the income of the CFC in separate categories if interest is paid to a U.S. shareholder of the CFC. Pursuant to

section 954(b)(5), this paragraph provides that such related person interest is allocated to passive income of the CFC to the extent of such passive income (the "netting rule"). Any excess of related person interest over passive income ("excess related person interest") is allocated among the CFC's separate categories (other than passive) on the basis of the assets in each such category. Other interest expense of the CFC is allocated among the CFC's separate income categories, including passive income, on the basis of the assets in each such category (reduced by related person debt allocable to that category), including assets in the passive category.

The Internal Revenue Service will reassess this rule in the process of adopting final regulations. For example, the following alternative will be considered in that process. Excess related person interest would be allocated in the same manner as interest expense other than definitely related interest and related person interest. Under this rule, related person interest would be allocated among a CFC's separate categories on the basis of assets in each separate category, including passive assets, with passive assets reduced by related person debt attributable to the passive category under the netting rule. The amount of excess related person interest that could be allocated to passive income under this rule would be limited to an amount that, when combined with related person interest allocated to the passive category under the netting rule, would not exceed the related person interest that would have been allocated to the passive category under § 1.861-8 without regard to the netting rule. Taxpayers are invited to comment on the relative merits of the rule as proposed, the suggested alternative, and any other alternatives.

Paragraph (c)(3) provides that rents or royalties received or accrued from a CFC shall be treated as income in a separate category to the extent allocable to the income of the CFC in that category. Paragraph (c)(4)(i) provides that dividends shall be treated as income in a separate category in proportion to the ratio of the portion of earnings and profits attributable to income in such category to the total amount of earnings and profits of the CFC. Paragraph (c)(4)(ii) provides a special rule for dividends attributable to loans made to the CFC payor by a related person.

Section 1.904-7(d) provides that, if a CFC satisfies the de minimis rule of section 904(b)(5), all of the CFC's gross foreign base company income and gross

insurance income shall be treated as general limitation income. Paragraph (d)(2) provides that, for purposes of the dividend look-through rule, an item of net income that would otherwise be passive income will be treated as general limitation income if the taxpayer elects to establish that such income was subject to a high effective rate of foreign income tax.

Section 1.904-7(e) provides that if all of a CFC's income is treated as Subpart F income because the CFC's foreign base company income and gross insurance income exceeds 70 percent of the CFC's gross income, the look-through shall apply to all of the CFC's income, including the amount of income that would not otherwise have been considered to be Subpart F income without the application of the 70 percent full inclusion rule.

Section 1.904-7(f)(1) provides that if a taxpayer receives interest that is allocable to financial services income of a CFC that would be treated as high withholding tax interest if the look-through rules did not apply, such interest shall be treated as high withholding tax interest.

Section 1.904-7(g) provides rules for the application of the look-through rules to related CFCs. Section 1.904-7(h) provides rules for the application of the look-through rules to certain domestic corporations. Section 1.904-7(i)(1) provides rules for the application of the look-through rules to partnerships. Paragraph (i)(2) provides an exception to the look-through rules for certain general and limited partnership interests.

Section 1.904-7(j) provides ordering rules for purposes of determining the character of income received or accrued by a person from a related person if the payor or another related person also receives or accrues income from the recipient and the look-through rules apply to the income in all cases.

Section 1.904-7(l) provides rules for the application of section 904(g) to income of a CFC. The application of section 904(g) to income of United States-owned foreign corporations other than CFCs is not addressed in these rules. Paragraph (l)(2) provides rules for determining the portion of an interest payment that is allocable to income earned by a CFC from sources within the United States. Paragraph (l)(4) provides rules for determining the portion of a dividend paid by a CFC from sources within the United States. Paragraph (l)(5) provides rules for determining the portion of an amount included in gross income under section 951(a) from sources within the United

States. Paragraph (l)(6) provides that the section 78 amount shall be treated as United States source income to the extent that it is attributable to taxes paid with respect to United States source income. Paragraph (l)(7) provides a special rule for income that is United States source income under the Code but is treated as foreign source income pursuant to an income tax convention with the United States.

Section 1.904-7(m) provides an ordering rule for the application of sections 904(d), (f), and (g).

Section 1.904-7(n) provides the effective date of the look-through rules.

Section 1.904-8 provides rules for the allocation of taxes to a separate category of income. Paragraph (a)(1) provides the general rule for allocating taxes to separate categories of income. Paragraph (a)(2) provides a special rule for the treatment of foreign taxes allocable to certain dividends from noncontrolled section 902 corporations.

Section 1.904-8(b)(1) provides rules for the determination of the deemed paid credit under sections 902 and 960 for taxes allocated to different categories of income. Paragraph (b)(2) provides a special allocation rule for taxes on income excluded from subpart F under section 954(b)(4). Paragraph (b)(3) provides rules for distributions received from foreign corporations if the distributions are excluded from gross income under section 959(b). Paragraph (b)(4) provides that the section 78 amount shall be treated as income in a separate category to the extent that it is attributable to taxes paid with respect to income in that category. Paragraph (b)(5) provides that the increase in foreign tax credit limitation under section 960(b) shall be determined with regard to the applicable category of income under section 904(d).

Section 1.904-9 provides transition rules for the application of section 904(d). Paragraph (a) provides rules for the characterization of distributions and section 951(a)(1)(B) inclusions of earnings of a foreign corporation accumulated in taxable years beginning before January 1, 1987 during taxable years for both the payor foreign corporation and the recipient which begin after December 31, 1986. Paragraph (b) provides rules for the application of the look-through rules to distributions (including deemed distributions) and payments by an entity to a recipient when one's taxable year begins before January 1, 1987 and the other's taxable year begins after December 31, 1986. Paragraph (c) provides a transitional rule for income received after the effective date of the Act attributable to an installment sale

that occurred prior to the effective date of the Act. Paragraph (d) provides a special effective date for high withholding tax interest earned with respect to qualified loans described in section 1201(e)(2) of the Act. Paragraph (e) provides a rule for the characterization of amounts subject to recapture under section 585(c).

Section 701 of the Act (relating to the limitation on the use of foreign tax credits against minimum tax liability) shall apply notwithstanding any treaty provisions in effect on the date of enactment of the Act.

Comments and Requests To Appear at the Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held on November 12, 1987 in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

Special Analysis

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal authors of this regulation are Marnie J. Carro and Carolyn M. DuPuy of the Office of Associate Chief Counsel (International), Internal Revenue Service. However, other personnel from offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of substance and style.

List of Subjects in 26 CFR 1.861-1 Through 1.997-1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, FSC, Sources of income, United States investments abroad.

Proposed Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Part 1 are as follows:

Income Tax Regulations

Paragraph 1. The authority for Part 1 continues to read in part:

PART 1—[AMENDED]

Authority: 26 U.S.C. 7805. * * * Section 1.904-6 also issued under 26 U.S.C. 904 (d) (5). * * *

Par. 2. New § 1.904-6 through § 1.904-9 are added immediately after § 1.904-5. The added sections read as follows:

§ 1.904-6 Separate application of section 904 with respect to certain categories of income.

(a) *In general.* A taxpayer is required to compute a separate foreign tax credit limitation for income received or accrued in a taxable year that is described in section 904 (d) (1) (A) (passive income), (B) (high withholding tax interest), (C) (financial services income), (D) (shipping income), (E) (dividends from each noncontrolled section 902 corporation), (F) (dividends from a DISC or former DISC), (G) (foreign trade income), (H) (distributions from a FSC or former FSC), or (I) (general limitation income).

(b) *Passive income—(1) In general.* The term "passive income" means any—

(i) Income received or accrued by any person that is of a kind that would be foreign personal holding company income (as defined in section 954 (c)), including any amount of gain on the sale or exchange of stock in excess of the amount treated as a dividend under section 1248; or

(ii) Amount includible in gross income under section 551 or section 1293.

Passive income does not include any income that is described in another subparagraph of section 904 (d) (1), any export financing interest (as defined in section 904 (d) (2) (G) and paragraph (h) of this section), any high-taxed income (as defined in section 904 (d) (2) (F) and paragraph (c) of this section), or any foreign oil and gas extraction income (as defined in section 907 (c)). In determining whether any income is of a kind that would be foreign personal holding company income, the rules of section 864 (d) (6) shall apply only in the case of income of a controlled foreign corporation (as defined in section 957).

(2) *Active rents or royalties—(i) In general.* Passive income does not include any rents or royalties that are derived in the active conduct of a trade

or business and received from a person who is an unrelated person. Except as provided in paragraph (b) (2) (ii) of this section, the principles of § 1.954-2 (d) (1) shall apply in determining whether rents or royalties are derived in the active conduct of a trade or business. For this purpose, the term "taxpayer" shall be substituted for the term "controlled foreign corporation" if the recipient of the rents or royalties is not a controlled foreign corporation. If rents or royalties are received or accrued by a United States corporation from an unrelated person, the active trade or business requirement may be satisfied by the recipient or by—

(A) A corporation that is a member of an affiliated group of corporations (within the meaning of section 1504 (a)) of which the recipient is a member if the group files a return on a consolidated basis; or

(B) A controlled foreign corporation of which the recipient of the income is a United States shareholder (as defined in section 951 (b)).

(ii) *Royalties earned by a controlled foreign corporation.* Royalties are considered derived in the active conduct of a trade or business by a controlled foreign corporation for purposes of section 904 (but not for purposes of section 954 unless, without regard to this paragraph (b) (2) (ii), the requirements of section 954 (c) (2) (A) and the regulations thereunder are satisfied) if:

(A) The property which the controlled foreign corporation licenses is property which the United States shareholder of the controlled foreign corporation (or any other member of the affiliated group (as defined in section 1504(a)) of which the United States shareholder is a member) has developed, created, or produced, or has acquired or added substantial value to, but only if the United States shareholder (or a member of the United States shareholder's affiliated group) is regularly engaged in the development, creation, or production of, or the acquisition and addition of substantial value to, and licensing of such property, and

(B) The controlled foreign corporation's activities are an essential economic element in the realization of the royalties.

A controlled foreign corporation's activities are an essential economic element in the realization of royalty income only if the controlled foreign corporation performs significant services, sales, or manufacturing activities incident to the production of such income.

(iii) *Unrelated person.* For purposes of this paragraph (b)(2), a person is

considered to be an unrelated person if the person is not a related person within the meaning of section 954(d)(3), without regard to whether the relationship described in section 954(d)(3) is between a controlled foreign corporation and another person or between two persons neither one of which is a controlled foreign corporation.

(iv) *Examples.* The following examples illustrate the application of paragraph (b)(2)(ii) of this section.

Example (1). Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. S is regularly engaged in the restaurant franchise business. P licenses trademarks, tradenames, certain know-how, related services, and certain restaurant designs for which S pays P an arm's length royalty. P is regularly engaged in the development and licensing of such property. The royalties received by P for the use of its property are allocable under the look-through rules of § 1.904-7 to the royalties S receives from the franchisees. All of the franchisees are unrelated to S or P and operate in S's country of incorporation. S employs a substantial staff in its country of incorporation that regularly engages in selecting franchisees, training employees of franchisees, marketing of products, developing an independent supplier network, providing quality control, selecting restaurant sites, and providing other services to franchisees. S does not satisfy the active trade or business requirements of § 1.954-2(d)(1) but its activities are an essential economic element in the realization of the royalty income. Therefore, the royalty income earned by S with regard to its franchisees is foreign personal holding company income that is general limitation income, and the royalties paid to P are general limitation income to P.

Example (2). Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. P is a soft drink manufacturer and S manufactures the syrup used in P's soft drinks. P licenses tradenames, trademarks, and certain product designs to S which S relicenses to unrelated bottlers. P is regularly engaged in the development and licensing of such property. The income S receives consists of general limitation non-Subpart F sales income and Subpart F foreign personal holding company royalty income. The royalties received by P for the use of its property are allocable under the look-through rules of § 1.904-7 to the royalty income earned by S. S does not satisfy the active trade or business requirement of § 1.954-2(d)(1) but its activities are an essential economic element in the realization of the royalty income. Therefore, the royalty income S earns is Subpart F foreign personal holding company income that is general limitation income, and the royalties paid to P are general limitation income to P.

(c) *High-taxed income—(1) In general.* Income received or accrued by a United States person that would otherwise be passive income shall not be treated as passive income if the income is

determined to be high-taxed income. Income shall be considered to be high-taxed income if, after allocating expenses of the United States person to that income, the sum of the foreign income taxes paid or accrued by the United States person with respect to such income and the foreign taxes deemed paid or accrued by the United States person with respect to such income under section 902 or section 960 exceeds the highest rate of tax specified in section 1 of section 11, whichever applies (and with reference to section 15 if applicable), multiplied by the amount of such income (including the amount treated as a dividend under section 78). If, after application of this paragraph, income that would otherwise be passive income is determined to be high-taxed income, it shall be treated as general limitation income, and any taxes imposed on that income shall be considered related to general limitation income under § 1.904-8.

(2) *Grouping of items of income in order to determine whether passive income is high-taxed income—(i) In general.* For purposes of determining whether passive income is high-taxed income, the grouping rules of this paragraph (c)(2) apply. These rules shall be applied separately to items of income received or accrued from or inclusions with respect to each controlled foreign corporation of which the taxpayer is a United States shareholder. These rules shall be applied separately to income attributable to each qualified business unit (as defined in section 989(a)) of a taxpayer. These rules shall also be applied separately to income attributable to each qualified business unit of a controlled foreign corporation or any other entity subject to the look-through rules of § 1.904-7. Notwithstanding the preceding sentence, a taxpayer shall not apply these rules separately to income from each qualified business unit that is income described in paragraph (c)(2)(v) of this section (income that does not carry with it any direct foreign tax credits). The rules contained in this paragraph (c)(2) apply to taxable years beginning after December 31, 1987.

(ii) *Amounts received or accrued by a United States shareholder of a controlled foreign corporation—(A) Rents or royalties.* All rents or royalties received or accrued by a taxpayer during the taxable year from a controlled foreign corporation of which the taxpayer is a United States shareholder that are (after application of the look-through rules of section 904(d)(3) and § 1.904-7) allocable to passive income of the controlled foreign

corporation shall be treated as a single item of income and shall not be grouped with other amounts.

(B) *Other amounts received or accrued by a United States shareholder.* All amounts, other than rents or royalties described in paragraph (c)(2)(ii)(A) of this section and dividends described in paragraph (c)(2)(ii)(C) of this section, received or accrued by a taxpayer during the taxable year from a controlled foreign corporation of which the taxpayer is a United States shareholder that are (after application of the look-through rules of section 904(d)(3) and § 1.904-7) allocable to passive income of the controlled foreign corporation shall be treated as a single item of income and shall not be grouped with other amounts.

(C) *Dividends received or accrued by United States shareholders.* Dividends received or accrued by a taxpayer during the taxable year from a controlled foreign corporation of which the taxpayer is a United States shareholder that are (after application of the look-through rules of section 904(d)(3) and § 1.904-7) attributable to periods when the controlled foreign corporation was neither a controlled foreign corporation nor a noncontrolled section 902 corporation (as described in paragraph (g)(3) of this section) shall be treated as a single item of income and shall not be grouped with other amounts.

(iii) *Subpart F inclusions—(A) Attributable to passive rent or royalty income.* All amounts included in the gross income of a United States shareholder under section 951(a)(1) for a particular year that (after application of the look-through rules of section 904(d)(3) and § 1.904-7) are attributable to passive income consisting of rents or royalties received or accrued by a controlled foreign corporation shall be treated as a single item of income and shall not be grouped with other amounts.

(B) *Attributable to passive income other than passive rent or royalty income.* All amounts included in the gross income of a United States shareholder under section 951(a)(1) for a particular year that (after application of the look-through rules of section 904(d)(3) and § 1.904-7) are attributable to passive income consisting of income other than rents or royalties received or accrued by a controlled foreign corporation shall be treated as a single item of income and shall not be grouped with other amounts.

(iv) *Amounts paid or accrued to a taxpayer other than a United States shareholder that carry direct foreign credits—(A) Rents or royalties.* All

passive income consisting of rents or royalties received or accrued by a taxpayer during the taxable year from a person other than a controlled foreign corporation of which the taxpayer is a United States shareholder and with respect to which an income tax described in § 1.901-2(a) is paid or accrued shall be treated as a single item of income and shall not be grouped with other amounts.

(B) *Other income.* All passive income not consisting of rents or royalties that are received or accrued by a taxpayer during the taxable year from a person other than a controlled foreign corporation of which the taxpayer is a United States shareholder with respect to which an income tax described in § 1.901-2(a) is paid or accrued shall be treated as a single item of income and shall not be grouped with other amounts.

(v) *Certain income that does not carry direct foreign tax credits.* All passive income that is received or accrued by a taxpayer during the taxable year from a person other than a controlled foreign corporation of which the taxpayer is a United States shareholder with respect to which no income tax described in § 1.901-2(a) is paid or accrued shall be treated as a single item of income and shall not be grouped with other amounts.

(vi) *Certain partnership income.* A partner's distributive share of partnership income that is treated as passive income under § 1.904-7(i)(2) shall be treated as a single item of income and shall not be grouped with other amounts.

(3) *Application of this paragraph to additional taxes paid or deemed paid in the year of receipt of previously taxed income—(i) Determination made in year of inclusion.* The determination of whether an amount included in gross income under section 951(a) is high-taxed income shall be made in the taxable year the income is included in the gross income of the United States shareholder under section 951(a) (hereinafter the "taxable year of inclusion"). Thus, any additional foreign tax paid or accrued, or deemed paid or accrued, when the taxpayer receives an amount that is excluded from gross income under section 959(a) and that is attributable to a controlled foreign corporation's earnings and profits relating to the amount previously included in gross income will not be considered in determining whether the amount included in income in the taxable year of inclusion is high-taxed income.

(ii) *Exception.* The provisions of paragraph (c)(3)(i) of this section shall

not apply to the extent that the taxpayer receives a distribution that is excluded from gross income under section 959(a) and the distribution is received within 30 or more days prior to the day that the taxpayer files its return for the taxable year of inclusion of the amount to which the distribution is attributable (the "prefiling period"). In such a case, for purposes of determining whether the amount included in income in the taxable year of inclusion is high-taxed income, the United States shareholder shall consider as taxes attributable to that inclusion all foreign taxes paid or accrued, or deemed paid or accrued, prior to the end of the prefiling period with respect to that inclusion.

(iii) *Allocation of foreign taxes imposed on distributions of previously taxed income.* If an item of income is considered high-taxed income in the year of inclusion, then any additional foreign income taxes imposed with respect to that item shall be considered to be related to general limitation income. If an item of income is not considered to be high-taxed income in the taxable year of inclusion, the following rules shall apply. The taxpayer shall treat taxes paid or accrued, or deemed paid or accrued, on any distribution of the earnings and profits attributable to the amount included in gross income in the taxable year of inclusion as taxes related to passive income to the extent of the excess of the product of (A) the highest rate of tax in section 11 (determined with regard to section 15 and determined as of the year of inclusion) and (B) the amount of the inclusion (after allocation of parent expenses) over (C) the taxes paid or accrued, or deemed paid or accrued, in the year of inclusion. The taxpayer shall treat any taxes paid or accrued, or deemed paid or accrued, on the distribution in excess of this amount as taxes related to general limitation income.

(4) *Application of this paragraph to certain reductions of tax on distributions of income—(i) In general.* If the effective rate of tax imposed by a foreign country on income of a foreign corporation that is included in a taxpayer's gross income may be reduced under foreign law on distribution of such income, the rules of this paragraph (c) apply at the time that the income is included in the taxpayer's gross income without regard to the possibility of subsequent reduction of foreign tax on the distribution. If the inclusion is considered to be high-taxed income, then the taxpayer shall treat the inclusion as general limitation income. If the foreign corporation distributes the

earnings and profits to which the inclusion was attributable, then the taxpayer shall redetermine whether the inclusion should be considered to be high-taxed income. If, taking income into account the reduction in foreign tax, the inclusion would not have been considered high taxed income, then the taxpayer shall redetermine its foreign tax credit for the year or years affected and shall treat the inclusion and the associated taxes (as reduced on the distribution) as passive income and taxes. See section 905(c) and the regulations thereunder regarding the method of adjustment.

(ii) *Exception.* The provisions of paragraph (c)(4)(i) of this section shall not apply to the extent that the taxpayer receives a distribution that is excluded from gross income under section 959(a) within the pre-filing period, as defined in paragraph (c)(3)(ii) of this section. In such a case, for purposes of determining whether the amount included in income in the taxable year of inclusion is high-taxed income, the United States shareholder shall consider as taxes paid or accrued, or deemed paid or accrued, with respect to that inclusion all foreign taxes paid or accrued, or deemed paid or accrued (as reduced at the time of distribution) prior to the end of the pre-filing period with respect to that inclusion.

(iii) *Interaction with section 954(b)(4).* If the effective rate of tax imposed by a foreign country on income of a foreign corporation may be reduced under foreign law on distribution of that income, the rules of section 954(b)(4) shall be applied without regard to the possibility of subsequent reduction of foreign tax. If a taxpayer excludes passive income from a controlled foreign corporation's foreign personal holding company income under these circumstances, then the income shall be considered to be passive income until distribution of that income. At that time, the rules of this paragraph (c) shall apply to determine whether the income is high-taxed income and, therefore, general limitation income.

(5) *Examples.* The following examples illustrate the application of this paragraph (c).

Example (1). Controlled foreign corporation S is a wholly-owned subsidiary of domestic corporation P. S is a single qualified business unit (QBU). In 1988, S earns \$130 of gross passive royalty income, and incurs \$30 of expenses that do not include any payments to P. S's \$100 of net passive royalty income is subject to \$30 of foreign tax, and is included under section 951 in P's gross income for the taxable year. P allocates \$50 of expenses to the \$100 (consisting of the \$70 section 951 inclusion and \$30 section 78 amount),

resulting in a net inclusion of \$50. After application of the high-tax kick-out rules of paragraph (c)(2)(iii)(A) of this section, the \$50 inclusion is treated as general limitation income, and the \$30 of taxes deemed paid are treated as taxes imposed on general limitation income, because the foreign taxes paid and deemed paid on the income exceed the highest United States tax rate multiplied by the \$50 inclusion ($\$30 > \$17 (.34 \times \$50)$).

Example (2). The facts are the same as in example (1) except that instead of earning \$130 of gross passive royalty income, S earns \$65 of gross passive royalty income and \$65 of gross passive interest income. S incurs \$15 of expenses and \$5 of foreign tax with regard to the royalty income and incurs \$15 of expenses and \$10 of foreign tax with regard to the interest income. P allocates \$50 of expenses pro rata to the \$50 inclusion (\$45 section 951 inclusion and \$5 section 78 amount) attributable to the royalty income earned by S and the \$50 inclusion (\$40 section 951 inclusion and \$10 section 78 amount) attributable to the interest income earned by S. Pursuant to paragraph (c)(2)(ii)(A) and (B) of this section, the high-tax kick-out rules are applied separately to the section 951 inclusion attributable to the royalty income and the section 951 inclusion attributable to the interest income. Therefore, after allocation of P's \$50 of expenses, the resulting \$25 inclusion attributable to the royalty income is still treated as passive income because the foreign taxes paid and deemed paid on the income do not exceed the highest United States tax rate multiplied by the \$25 inclusion ($\$5 < \$8.50 (.34 \times \$25)$). The \$25 inclusion attributable to the interest income is treated as general limitation income because the foreign taxes paid and deemed paid exceed the highest United States tax rate multiplied by the \$25 inclusion ($\$10 > \$8.50 (.34 \times \$25)$).

Example (3). Controlled foreign corporation S is a wholly-owned subsidiary of domestic corporation P. S is incorporated in country X and has branches in country Y and country Z. The branches are qualified business units (QBUs), within the meaning of section 989(a). In 1988, S earns \$65 of gross passive royalty income in each QBU and allocates \$15 of expenses to the gross passive royalty income earned by each QBU, resulting in net income of \$50 in each QBU. Country X imposes \$5 of foreign tax on the \$50 of net royalty income earned in X, and country Y imposes \$10 of tax on the \$50 of net royalty income earned in Y. All of S's income constitutes subpart F foreign personal holding company income that is passive income and is included in P's gross income for the taxable year. P allocates \$50 of expenses pro rata to the \$100 Subpart F inclusion attributable to each QBU (consisting of the \$45 section 951 inclusion derived through QBU X, the \$5 section 78 amount attributable to QBU X, the \$40 section 951 inclusion derived through QBU Y, and the \$10 section 78 amount attributable to QBU Y), resulting in a net inclusion of \$50. Pursuant to paragraph (c)(2)(iii)(A) of this section, the high-tax kick-out rules must be applied separately to the Subpart F inclusion attributable to the royalty income earned by QBU X and the royalty income earned by QBU Y. After application of the high-tax kick-

out rules, the \$25 inclusion attributable to X will still be treated as passive income because the foreign taxes paid and deemed paid on the income do not exceed the highest United States tax rate multiplied by the \$25 inclusion ($\$5 < \$8.50 (.34 \times \$25)$). The \$25 inclusion attributable to Y will be treated as general limitation income because the foreign taxes paid and deemed paid on the income exceed the highest United States tax rate multiplied by the \$25 inclusion ($\$10 > \$8.50 (.34 \times \$25)$).

Example (4). Domestic corporation M operates in branch form in foreign countries X and Y. The branches are qualified business units (QBUs), within the meaning of section 989(a). In 1988, QBU X earns passive royalty income, interest income and rental income. The royalty income is not subject to foreign tax, and the interest income and the rental income are subject to a 4 percent and 15 percent withholding tax, respectively. QBU Y earns interest income that is not subject to foreign tax. For purposes of determining whether M's foreign source passive income is high-taxed income, the royalty income earned in QBU X and the interest income earned in QBU Y are treated as one item of income pursuant to paragraph (c)(2)(v) of this section. The interest income earned by QBU X and the rental income earned in QBU X are each treated as a separate item of income.

Example (5). S, a controlled foreign corporation incorporated in foreign country R, is a wholly-owned subsidiary of P, a domestic corporation. For 1988, P is required under section 951(a) to include in gross income \$80 attributable to the earnings and profits of S for such year, all of which is foreign personal holding company income that is passive rent or royalty income. S does not make any distributions in 1988 or 1989. Foreign income taxes paid by S for 1988 that are deemed paid by P for such year under section 960(a) with respect to the section 951(a) inclusion equal \$20. Twenty dollars (\$20) of P's expenses are properly allocated to the section 951(a) inclusion. The foreign income tax paid with respect to the section 951(a) inclusion does not exceed the highest United States tax rate multiplied by the amount of income after allocation of parent expenses ($\$20 < \$27.20 (.34 \times \$80)$). Thus, P's section 951(a) inclusion for 1988 is included in P's passive income and the \$20 of taxes attributable to that inclusion are treated as taxes related to passive income. In 1990, after P has filed its return for its 1988 tax year, S distributes \$80 to P, and under section 959 that distribution is treated as attributable to the earnings and profits with respect to the amount included in income by P in 1988 and is excluded from P's gross income. Foreign country R imposes a withholding tax of \$15 on the distribution in 1990. Under paragraph (c)(3)(i) of this section, the withholding tax in 1990 does not affect the characterization of the 1988 inclusion as passive income nor does it affect the characterization of the \$20 of taxes paid in 1988 as taxes paid with respect to passive income. No further parent expenses are allocable to the receipt of that distribution. In 1990, the foreign taxes paid (\$15) exceed the product of the highest United States tax rate and the amount of the

inclusion reduced by taxes deemed paid in the year of inclusion (\$15 > (.34 × \$80) - \$20)). Thus, under paragraph (c)(3)(iii) of this section, \$7.20 ((.34 × \$80) - \$20)) of the \$15 withholding tax paid in 1990 is treated as taxes related to passive income and the remaining \$7.80 (\$15 - \$7.20) of the withholding tax is treated as related to general limitation income.

Example (6). The facts are the same as in Example (5), except that S distributes the \$80 in 1989 rather than 1990 and the distribution is made 30 days before P files its return for its 1988 tax year. Under paragraph (c)(3)(ii) of this section both the \$20 tax paid by S in 1988 and the \$15 withholding tax paid by P in 1989 are considered in determining whether the section 951(a) inclusion for 1988 is high-taxed income. Thus, because the total amount of foreign taxes paid with respect to the 1988 inclusion exceeds the amount determined by multiplying the highest United States rate for 1988 by the amount of the inclusion reduced by allocable parent expenses (\$35 > \$27.20 (.34 × \$80)), the section 951(a) inclusion in 1988 is treated as general limitation income and the entire \$35 of tax (the \$20 of 1988 taxes and the \$15 of 1989 taxes) is treated as taxes related to general limitation income.

Example (7). S, a controlled foreign corporation, is a wholly-owned subsidiary of P, a domestic corporation. P and S are calendar year taxpayers. In 1987, S's only earnings consist of \$200 of passive income that is foreign personal holding company income that is earned in a foreign country X that has an integrated tax system. Under this system, the foreign corporate tax on particular earnings is reduced on distribution of those earnings. In 1987, S pays \$100 of foreign tax. P does not elect to exclude this income from Subpart F under section 954(b)(4) and includes \$200 in gross income (\$100 of net foreign personal holding company income and \$100 of the section 78 amount). At the time of the inclusion, the income is considered to be high-taxed income under paragraph (c) of this section and is general limitation income to P. S does not distribute any of its earnings in 1987. In 1988, S has no earnings. On December 31, 1988, S distributes the \$100 of earnings from 1987. At that time, S receives a \$50 refund from X attributable to the reduction of the country X corporate tax imposed on those earnings. Under paragraph (c)(4) of this section, P must redetermine whether the 1987 inclusion should be considered to be high-taxed income. By taking into account the reduction in foreign tax, the inclusion would not have been considered high-taxed income. Therefore, P must redetermine its foreign tax credit for 1987 and treat the inclusion and the taxes associated with the inclusion as passive income and taxes. P must follow the appropriate section 905(c) procedures.

Example (8). The facts are the same as in example (7) except that P elects to apply section 954(b)(4) to S's passive income that is Subpart F income. Although the income is not considered to be Subpart F income, it remains passive income until distribution. In 1988, S distributes all of its earnings to P and pays P a \$150 dividend consisting of the \$100 of earnings in 1987 and the \$50 refund in 1988 attributable to the 1987 earnings. P has no

expenses allocable to the dividend from S. In 1988, the income is subject to the high-tax kick-rules under paragraph (c)(4)(iii) of this section. The income is passive income to P because the foreign taxes paid and deemed paid by P with respect to the income do not exceed the highest United States tax rate on that income.

(d) *High withholding tax interest.* The term "high withholding tax interest" means any interest if such interest is subject to a withholding tax of a foreign country or a possession of the United States and the rate of tax applicable to such interest is at least 5 percent. For purposes of the preceding sentence, a withholding tax is any tax imposed by a foreign country or possession of the United States that is determined on a gross basis. A withholding tax shall not be considered to be determined on a gross basis if the tax is not the final tax payable on the interest income, but is merely a prepayment or credit against a final foreign tax liability determined on a net basis on the interest alone or on interest and other income. High withholding tax interest does not include any interest described as export financing interest (as defined in section 904(d)(2)(G) and paragraph (h) of this section). If interest income is excluded from the definition of high withholding tax interest because it is described as export financing interest, the interest shall be treated as general limitation income unless the interest is received or accrued by a financial services entity, as defined in paragraph (e)(3) of this section. In that case, the income shall be treated as financial services income.

(e) *Financial services income*—(1) *In general.* The term "financial services income" means income derived by a financial services entity, as defined in paragraph (e)(3) of this section, that is:

(i) Income derived in the active conduct of a banking, insurance, financing, or similar business (as defined in paragraph (e)(2) of this section) except income described in paragraph (e)(2)(i)(W) of this section (high withholding tax interest);

(ii) Passive income as determined before the application of the exception for high-taxed income;

(iii) Export financing interest as defined in section 904(d)(2)(G) and paragraph (h) of this section that, but for section 904(d)(2)(B)(ii), would also meet the definition of high withholding tax interest; or

(iv) Incidental income as defined in paragraph (e)(5) of this section.

(2) *Income from the active conduct of a banking, insurance, financial or similar business*—(i) *Income included.* For purposes of paragraph (e)(1) and (e)(3) of this section, income is derived

from the active conduct of a banking, insurance, financing, or similar business if it is described in any of the following subdivisions.

(A) Income that is of a kind that would be insurance income as defined in section 953(a) but excluding related party insurance income as defined in section 953(c)(2) and determined without regard to those provisions of section 953(a)(1)(A) that limit insurance income to income from countries other than the country in which the corporation was created or organized.

(B) Income from the investment by an insurance company of its unearned premiums or reserves ordinary and necessary to the proper conduct of the insurance business.

(C) Income from investing deposits of money received from the public.

(D) Income from making personal, mortgage, industrial, or other loans to the public.

(E) Income from purchasing, selling, discounting, or negotiating for the public on a regular basis, notes, drafts, checks, bills of exchange, acceptances, or other evidences of indebtedness.

(F) Income from issuing letters of credit to the public and negotiating drafts drawn thereunder.

(G) Income from providing trust services for the public.

(H) Income from arranging foreign exchange transactions for the public or engaging in foreign exchange transactions with the public.

(I) Income from purchasing stock, debt obligations, or other securities from an issuer or holder with a view to the public distribution thereof or offering or selling stock, debt obligations, or other securities for an issuer or holder in connection with the public distribution thereof, or participating in any such undertaking.

(J) Income earned by broker-dealers in the ordinary course of business (such as commissions) from the purchase or sale of stock, debt obligations, commodities futures, or other securities or financial instruments as an agent for a party in the sale.

(K) Service fee income from investment and correspondent banking.

(L) Income from interest rate and currency swaps.

(M) Income from providing fiduciary services to unrelated parties.

(N) Income from services provided to related parties with respect to the management of funds.

(O) Bank-to-bank participation income.

(P) Income from providing charge and credit card services.

(Q) Income from financing purchases from third parties.

(R) Income from gains on the disposition of tangible or intangible personal property or real property that was used in the active conduct of a banking, insurance, financing, or similar business but only to the extent that the property was held to generate or generated income derived in the active conduct of a banking, insurance, financing, or similar business prior to its disposition.

(S) Income from hedging gain with respect to other financial services income.

(T) Income from providing traveller's check services.

(U) Income that is determined to be financial services income under the look-through rules of § 1.904-7.

(V) Income from finance leasing that would not qualify as active leasing income under section 954(c)(2)(A).

(W) Income from lending activities that give rise to high withholding tax interest.

(X) Such other income as the Secretary may designate.

(ii) *Income excluded.* Income from merely serving as a finance vehicle for a parent corporation or a related person as defined in section 954(d)(3) shall not be considered to be income from the active conduct of a banking, insurance, financing, or similar business.

(3) *Definition of a financial services entity—(i) In general.* The term "financial services entity" means an individual or entity that is predominantly engaged in the active conduct of a banking, insurance, financing, or similar business for any taxable year. Except as provided in paragraph (e)(3)(ii) of this section, a determination of whether an entity is a financial services entity shall be done on an entity-by-entity basis. An individual or entity is predominantly engaged in the active conduct of a banking, insurance, financing, or similar business for any year if for that year 80 percent of its gross income is income described in paragraph (e)(2)(i) of this section. For this purpose, gross income includes all income realized by an individual or entity, whether includible or excludible from gross income under other operative provisions of the Code.

(ii) *Special rule for affiliated groups.* In the case of any domestic corporation that is not a financial services entity under paragraph (e)(3)(i) of this section, but is a member of an affiliated group (as defined in section 1504 (a)), such corporation will be deemed to be a financial services entity if the affiliated group as a whole meets the requirements of section (e)(3)(i) of this

section and the group files its return on a consolidated basis.

(iii) *Treatment of partnerships and other pass-through entities—(A) Rule.* For purposes of determining whether a partnership is a financial services entity, all of the partnership's income, including income characterized under the look-through rules of § 1.904-7, shall be taken into account. If the partnership is determined to be a financial services entity and, under § 1.904-7(i)(1), the partner's distributive share of income from the partnership is subject to the look-through rules, then financial services income of the partnership will be treated as income from the active conduct of a banking, insurance, financing, or similar business of the partner for purposes of determining whether the partner is a financial services entity. In such circumstances, for purposes of determining a partner's foreign tax credit limitations, the income shall be considered to be financial services income regardless of whether the partner is itself a financial services entity. If the partnership is determined not to be a financial services entity, then for purposes of determining whether a partner in a partnership is a financial services entity, income of the partnership shall retain its character in the hands of the partner. Thus, if the income is derived in the active conduct of a banking, insurance, financing, or similar business by the partnership, it shall be treated as income derived by the partner in the active conduct of such business. The rules of this paragraph (e)(3)(iii) will apply for purposes of determining whether an owner of an interest in any other pass-through entity the character of the income of which is preserved when such income is included in the income of the owner of the interest is a financial services entity.

(B) *Examples.* The principles of this paragraph (e)(3)(iii) are illustrated by the following examples.

Example (1). PS is a domestic partnership operating in branch form in foreign country X. PS has two equal general partners, A and B. A and B are domestic corporations that each operate in branch form in foreign countries Y and Z. All of A's income, except that derived through PS, is manufacturing income. All of B's income, except that derived through PS, is income from the active conduct of a banking, insurance, financing, or similar business. PS is a financial services entity and all of its income is financial services income. Therefore, A and B's distributive shares of PS's taxable income consist of financial services income whether or not A or B is a financial services entity. In order to determine if A or B are financial services entities, the income from PS is considered to be income of A and B from the active conduct of a banking, insurance, financing, or similar

business and will be combined with A's and B's manufacturing and active banking income, respectively, to determine if either or both satisfy the gross income test of paragraph (e)(3)(i) of this section.

Example (2). PS is a domestic partnership operating in branch form in foreign country X. A and B are domestic corporations that are equal general partners in PS. Fifty (50) percent of PS's gross income is income from the active conduct of a banking, insurance, financing, or similar business. The other 50 percent of PS's income is from manufacturing. PS is therefore not a financial services entity. A's and B's distributive shares of partnership taxable income consist of general limitation manufacturing income and income derived in the active conduct of a banking, insurance, financing, or similar business. Under paragraph (c)(3)(i) of this section, the income derived in the active conduct of a banking, insurance, financing, or similar business shall be financial services income to A or B if either A or B is determined to be a financial services entity. If A or B is not a financial services entity, the income shall be passive income to A or B.

(4) *Definition of incidental income—(i) In general—(A) Rule.* Incidental income is income that is integrally related to financial services income of a financial services entity. Such income includes, for example, income from precious metals trading and commodity trading that is integrally related to futures income. If securities, shares of stock, or other types of property are acquired by a financial services entity as an ordinary and necessary incident to the conduct of a banking, insurance, financing, or similar business, the income from such property will be considered to be financial services income but only so long as the retention of such property remains an ordinary or necessary incident to the conduct of such business. Thus property, including stock, acquired as the result of, or in order to prevent, a loss in banking, insurance, financing, or similar business upon a loan contracted in the ordinary course of such business will be considered ordinary and necessary to the conduct of such business, but income from such property will be considered financial services income only so long as the holding of such property remains an ordinary and necessary incident to the conduct of such business. If a financial services entity holds such property for 12 months or less, the entity shall be considered to hold such property incident to its financial services business. If an entity holds such property for more than 12 months, a presumption will be established that the entity is not holding such property incident to its financial services business. An entity will be able to rebut the presumption by

demonstrating that under the facts and circumstances it is not holding the property as an investment.

(B) *Examples.* The following examples illustrate the application of paragraph (e)(4)(i) of this section.

Example (1). X is a financial services entity within the meaning of paragraph (e) (3) (i) of this section. In 1987, X made a loan in the ordinary course of its business to an unrelated foreign corporation, Y. As security for that loan, Y pledged certain operating assets. Those assets generate income of a type that would be subject to the general limitation. In January 1989, Y defaulted on the loan and forfeited the collateral. From January to February of 1989, X attempted but was unable to sell the forfeited assets. During that period, X earned operating income generated by those assets. This income was applied in partial satisfaction of Y's obligation. In March of 1989, X sold the operating assets. The sales proceeds were in excess of the remainder of Y's obligation. The operating income received in the period from January to February of 1989 and the income on the sale of the assets in March of 1989 are financial services income of X.

Example (2). The facts are the same as in example (1), except that instead of pledging its operating assets as collateral for the loan, Y pledged the stock of its operating subsidiary Z. In March of 1989, X sold the stock of Z in complete satisfaction of Y's obligation. X's income from the sale of Z stock in satisfaction of Y's obligation is financial services income.

Example (3). P, a domestic corporation, is a financial services entity within the meaning of paragraph (e) (3) (i) of this section. P holds a United States dollar denominated debt (the "obligation") of the Central Bank of foreign country X. The obligation evidences a loan of \$100 made by P to the Central Bank. In 1988, pursuant to a program of country X, P delivers the obligation to the Central Bank which credits 70 units of country X currency to M, a country X corporation. M issues all of its only class of capital stock to P. M invests the 70 units of country X currency in the construction and operation of a new hotel in X. In 1990, M distributes 10 units of country X currency to P as a dividend. The dividend is not financial services income to P because, under the facts and circumstances, P is not able to rebut the presumption that it is not holding the property incident to its financial services business.

(ii) *Financing vehicles.* Income from acting as a financing vehicle for borrowing funds for a related person (within the meaning of section 954 (d) (3)) is incidental income within the meaning of paragraph (e) (4) (i) of this section.

(iii) *Income that is not incidental income.* Income that is attributable to non-financial activity is not incidental income within the meaning of paragraph (e) (4) (i) and (ii) of this section solely because such income represents a relatively small proportion of the taxpayer's total income or that the

taxpayer engages in non-financial activity on a sporadic basis. Thus, for example, income from data processing services provided to unrelated parties or income from the sale of goods or non-financial services (for example travel services) is not financial services income, even if the recipient is a financial services entity.

(5) *Exceptions.* Financial services income does not include income that is:

(i) Export financing interest as defined in section 904 (d) (2) (G) and paragraph (h) of this section unless such income also meets the definition of high withholding tax interest;

(ii) High withholding tax interest unless such income also meets the definition of export financing interest; and

(iii) Dividends from noncontrolled section 902 corporations as defined in section 904 (d) (2) (E) and paragraph (g) of this section.

(f) *Shipping income.* The term "shipping income" means any income received or accrued by any person that is of a kind that would be foreign base company shipping income (as defined in section 954 (f) and the regulations thereunder). Shipping income does not include any dividends received or accrued from a noncontrolled section 902 corporation or any income that is financial services income.

(g) *Noncontrolled section 902 corporation—(1) Definition.* Except as otherwise provided, the term "noncontrolled section 902 corporation" means any foreign corporation with respect to which the taxpayer meets the stock ownership requirements of section 902 (a) or, for purposes of applying the look-through rules described in section 904 (d) (3) and § 1.904-7, the taxpayer meets the requirements of section 902 (b).

(2) *Treatment of dividends from each separate noncontrolled section 902 corporation—(i) In general.* Except as otherwise provided, a separate foreign tax credit limitation applies to dividends received or accrued by a person from each noncontrolled section 902 corporation. Any dividend distribution made by a noncontrolled section 902 corporation out of earnings and profits attributable to periods in which the shareholder did not meet the stock ownership requirements of section 902 (a) or section 902 (b) shall be treated as distributions made by a noncontrolled section 902 corporation.

(ii) *Special rule for dividends received by a controlled foreign corporation.* If—

(A) Stock in a foreign corporation is owned by a controlled foreign corporation,

(B) There are two or more United States shareholders of that controlled foreign corporation, and

(C) The ownership requirements of section 902(b) with respect to the foreign corporation are met by one of the United States shareholders of the controlled foreign corporation,

then any dividends received by the controlled foreign corporation from the foreign corporation shall be treated in their entirety to the controlled foreign corporation as dividends from a noncontrolled section 902 corporation, notwithstanding that all the United States shareholders of the controlled foreign corporation do not meet the requirements of section 902(b). Any income received or accrued by a United States shareholder of a controlled foreign corporation described in the preceding sentence that is attributable to a dividend paid by a foreign corporation shall be considered to be passive income if the shareholder's interest in that foreign corporation does not satisfy the requirements of section 902(b).

(iii) *Special rules for high withholding tax interest.* If a taxpayer receives or accrues a dividend distribution from a noncontrolled section 902 corporation out of earnings and profits attributable to high withholding tax interest earned or accrued by the noncontrolled section 902 corporation, any gross basis foreign tax (as defined in paragraph (d) of this section) imposed on such interest, to the extent that the taxes are imposed at a rate in excess of 5 percent, shall not be treated as foreign taxes for purposes of determining the amount of foreign taxes deemed paid or accrued by the taxpayer under section 902. The preceding sentence shall have no effect upon the determination of the amount of earnings and profits of a noncontrolled section 902 corporation.

(3) *Special rule for controlled foreign corporations.* Distributions from a controlled foreign corporation shall be treated as dividends from a noncontrolled section 902 corporation, and therefore not subject to the look-through rules of § 1.904-7, only to the extent that the distribution is out of earnings and profits for periods during which the controlled foreign corporation was a noncontrolled section 902 corporation. Distributions from a controlled foreign corporation that are attributable to periods when the controlled foreign corporation was neither a controlled foreign corporation nor a noncontrolled section 902 corporation shall be treated as passive income.

(4) *Examples.* The following examples illustrate the application of this paragraph.

Example (1). A and B are domestic corporations. A owns 90 percent of the stock of C, a foreign corporation and B owns the remaining 10 percent of the C stock. C is a controlled foreign corporation. A and B are United States shareholders. C owns 20 percent of the stock of D, a foreign corporation, not a controlled foreign corporation, that is incorporated in a different country than C. D is a noncontrolled section 902 corporation with respect to C and A, but not with respect to B. In 1987, C has foreign personal holding company income of \$1000, \$100 of which is attributable to a dividend from D. The remainder of the foreign personal holding company income is passive income. Assume that gross income and net income are equal and that C pays no foreign taxes on its foreign personal holding company income. In 1987, A and B have section 951(a)(1)(A) inclusions of \$900 and \$100, respectively, attributable to foreign personal holding company income. Under paragraph (g)(2)(ii) of this section the \$900 included by A consists of \$810 passive income and \$90 of income attributable to a dividend from a noncontrolled section 902 corporation. The \$100 included by B in gross income is characterized as passive income in its entirety although \$10 of the \$100 is attributable to the dividend from D, and, as to C, is characterized as a dividend from a noncontrolled section 902 corporation. As to B, the \$10 is characterized as passive income because B does not meet the ownership requirements of section 902(b) with regard to D.

Example (2). In 1987, A, a domestic corporation, owned 9 percent of the stock of B, a foreign corporation. In 1988, A acquired an additional 20 percent of the stock of B. Thus, in 1988, B is a noncontrolled section 902 corporation with regard to A. In 1989, A acquired an additional 25 percent of the stock of B. A acquired no additional stock in 1990. In 1989 and 1990, A owned 54 percent of the stock of B. For 1989 and 1990, B is a controlled foreign corporation in which A is a United States shareholder. B has no Subpart F income in 1989 or 1990. In 1990, B pays a dividend of \$3,000 to A. One thousand dollars (\$1,000) of the dividend is attributable to earnings and profits from 1987, \$1,000 is attributable to earnings and profits from 1988, and \$1,000 is attributable to earnings and profits from 1989. Under paragraph (g)(3) of this section, the \$1,000 attributable to the earnings and profits from 1989 is subject to the look through rules of section 904(d)(3) and § 1.904-7(c)(4) and is characterized in A's hands according to those rules. The \$1,000 attributable to the 1988 earnings and profits is treated as income subject to a separate limitation for dividends from a noncontrolled section 902 corporation (B corporation), and the \$1,000 attributable to the earnings and profits in 1987 is treated as passive income.

Example (3). M owns 40 percent of the voting stock of foreign corporation N. N is a noncontrolled section 902 corporation. In 1987, N earns \$2,000 of gross interest income and incurs \$1,700 of interest expense. N

incurs no other expenses and earns no other income. One thousand dollars (\$1,000) of the interest income is subject to a 10 percent withholding tax and is, therefore, high withholding tax interest. N's earnings and profits are \$200 (\$2,000 gross interest income less \$1,700 interest expense less \$100 withholding tax). N pays the full \$200 out as a dividend. M receives \$80 (40 percent of the \$200). Under paragraph (g)(3) of this section, \$50 ($\$100 - 5\% \times \$1,000$) of the \$100 withholding tax is not treated as a foreign tax for purposes of determining the amount of foreign taxes deemed paid by M under section 902. M's deemed paid credit with respect to the \$80 dividend it receives is, therefore, reduced from \$40 ($\$100 \times \$80/\200) to \$20 ($\$50 \times \$80/\200).

(h) *Export financing interest—(1) In general.* The term "export financing interest" means any interest derived from financing the sale (or other disposition) for use or consumption outside the United States of any property that is manufactured, produced, grown, or extracted in the United States by the taxpayer or a related person, and not more than 50 percent of the fair market value of which is attributable to products imported into the United States. For purposes of this paragraph, the term "United States" includes the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) *Fair market value.* For purposes of this paragraph, the fair market value of any property imported into the United States shall be its appraised value, as determined by the Secretary under section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a) in connection with its importation. For purposes of determining the foreign content of an item of property imported into the United States, see § 1.927(a)-1T(e)(4).

(3) *Related person.* For purposes of this paragraph, a related person is an individual, corporation, partnership, trust, or estate that is controlled by the same person or persons that control the recipient of the export financing interest. In the case of a corporation, control means the direct or indirect ownership of stock possessing 50 percent or more of the total voting power of all classes of stock entitled to vote or of the total value of stock of the corporation. In the case of a partnership, trust, or estate, control means the direct or indirect ownership of 50 percent or more by value of the beneficial interests in the partnership, trust, or estate. Ownership of stock and ownership of beneficial interests shall be determined under the principles of section 958(b).

(4) *Interaction of export financing interest and related person factoring income—(i) Export financing interest that is also related person factoring*

income. Section 904(d)(2)(A)(iii)(II) (providing that passive income excludes export financing interest) does not apply to income that also meets the definition of export financing interest (with the result that such income shall be treated as passive income) if such income is—

(A) Income received or accrued by a controlled foreign corporation (other than a financial services entity) that is income described in section 864(d)(6) (income of a controlled foreign corporation from a loan for the purpose of financing the purchase of inventory property or services of a related person); or

(B) Income received or accrued by any person (other than a financial services entity) that is income described in section 864(d)(1) (income from a trade or service receivable acquired from a related person).

If the income described in the preceding sentence is received or accrued by a financial services entity, it shall be treated as financial services income.

(ii) *Examples.* The following examples illustrate the operation of paragraph(h)(4)(i) of this section.

Example (1). Controlled foreign corporation S is a wholly-owned subsidiary of domestic corporation P. S has accumulated cash reserves. P has uncollected trade and service receivables of foreign obligors. P sells the receivables at a discount ("factors") to S. The income derived by S on the receivables is described in section 864(d)(1). The income is also export financing interest. Because the income is described in section 864(d)(1), section 904(d)(2)(A)(iii)(II) does not apply and the income is passive income to S.

Example (2). The facts are the same as in example (1) except that S is a financial services entity and derives the income in the conduct of a banking business. The income derived by S on the receivables is income described in section 864(d)(1). The income is also export financing interest. Section 904(d)(2)(C)(iii)(III) does not apply and the income is financial services income to S.

Example (3). Domestic corporation S is a wholly-owned subsidiary of domestic corporation P. S has accumulated cash reserves. P has uncollected trade and service receivables of foreign obligors. P factors the receivables to S. The income derived by S on the receivables is income described in section 864(d)(1). The income is also export financing interest. Because the income is described in section 864(d)(1), section 904(d)(2)(A)(iii)(II) does not apply and the income will be passive income to S.

Example (4). The facts are the same as in example (3) except that instead of factoring P's receivable, S finances the sales of P's goods by making loans to the purchasers of P's goods. The interest derived by S on these loans is export financing interest and is not income described in section 864(d)(6) (S is not a controlled foreign corporation) or section

864(d)(1)(P) does not factor receivables). The income will be general limitation income to S.

(iii) *Income eligible for section 864(d)(7) exception (same country exception) from related person factoring treatment—(A) Income other than interest.* If any foreign person that is not a financial services entity receives or accrues income that is described in section 864(d)(7) (income on a trade or service receivable acquired from a related person in the same foreign country as the recipient) as such income would also meet the definition of export financing interest if section 864(d)(1) applied to such income (income on a trade or service receivable acquired from a related person treated as interest), then the income shall be considered to be export financing interest for purposes of section 904(d)(2)(A)(iii)(II) and shall be treated as general limitation income. If a financial services entity receives or accrues such income, the income shall not be considered to be export financing interest under section 904(d)(2)(C)(iii)(III) and shall therefore be treated as financial services income.

(B) *Interest income.* If export financing interest is received or accrued by any foreign person and that income would otherwise be treated as related person factoring income under section 864(d)(6) If section 864(d)(7) did not apply, section 904(d)(2)(A)(iii)(II) shall apply, and the interest shall be treated as general limitation income unless the interest is received or accrued by a financial services entity. In that case, section 904(d)(2)(C)(iii)(III) shall not apply and the interest shall therefore be treated as financial services income.

(C) *Examples.* The following examples illustrate the operation of paragraph (h)(4)(iii) (A) and (B) of this section.

Example (1). Controlled foreign corporation S is a wholly-owned subsidiary of domestic corporation P. Controlled foreign corporation T is a wholly-owned subsidiary of controlled foreign corporation S. S and T are incorporated in country M. In 1987, P sells tractors to T, which T sells to X, a foreign corporation organized in country M. The tractors are to be used in country M. T has uncollected trade receivables from X that it factors to S. The income derived by S from the receivables is not derived in the conduct of a banking business, and S is not a financial services entity. The income is not described in section 864(d)(1)(related person factoring interest income) because it is described in section 864(d)(7)(income eligible for the same country exception). Because the income derived by S from the receivables would meet the definition of export financing interest if the income were described in section 864(d)(1), the income is considered to be export financing interest for purposes of section 904(d)(2)(A)(iii)(II) and is general limitation income to S.

Example (2). The facts are the same as in example (1) except that S is a financial services entity and derives the income on the receivables in the conduct of a banking business. The income derived by S from the receivables is not described in section 864(d)(1) because it is described in section 864(d)(7). Because the income is not considered to be export financing interest for purposes of section 904(d)(2)(C)(iii)(III), the income is financial service income to S.

Example (3). Controlled foreign corporation S is a wholly-owned subsidiary of domestic corporation P. Controlled foreign corporation T is a wholly-owned subsidiary of controlled foreign corporation S. S and T are incorporated in country M. S is not a financial services entity. In 1987, P sells tractors to T, which T sells to X, a foreign partnership that is organized in country M and is related to S and T. S makes a loan to X to finance the tractor sales. The interest earned by S from financing the sales is export financing interest. Under paragraph (h)(4)(iii)(B) of this section, since the interest is described in section 864(d)(7) and is export financing interest, section 904(d)(2)(A)(iii)(II) shall apply and the income shall be general limitation income to S.

Example (4). The facts are the same as in example (3) except that S is a financial services entity and derives the interest on the loan to X in the conduct of a banking business. The interest earned by S is export financing interest that is not described in section 864(d)(1) because it is described in section 864(d)(7). Since the interest is described in section 864(d)(7) and is export financing interest, section 904(d)(2)(C)(iii)(III) shall not apply and the income shall be financial service income to S.

(i) *Interaction of section 907(c) and income described in this section.* If a person receives or accrues income that is income described in section 907(c) (relating to oil and gas income), the rules of section 907(c) and the regulations thereunder, as well as the rules of this section, shall apply to the income. Thus, for example, if a taxpayer receives or accrues a dividend distribution from two separate noncontrolled section 902 corporations out of earnings and profits attributable to income received or accrued by the noncontrolled section 902 corporations that is income described in section 907(c), the rules provided in section 907 shall apply separately to the dividends received from each noncontrolled section 902 corporation. The reduction in amount allowed as foreign tax provided by section 907(a) shall therefore be calculated separately for dividends received or accrued by the taxpayer from each separate noncontrolled section 902 corporation.

(j) *Priority rules.* In the case of income that meets the definitions of more than one category of separate limitation income the following priority rules apply:

(1) Income that meets the definitions of passive income and of any other separate limitation income will be subject to the other separate limitation;

(2) Income that meets the definitions of financial services income and of either shipping income or passive income will be subject to the separate limitation for financial services income;

(3) Income that meets the definitions of financial services income and of any separate limitation income other than shipping or passive income will be subject to the other separate limitation;

(4) Income that meets the definitions of dividends from a noncontrolled section 902 corporation and of any other separate limitation income will be subject to the separate limitation for dividends from a noncontrolled section 902 corporation; and

(5) Income that meets the definitions of high withholding tax interest and of any other separate limitation income will be high withholding tax interest.

§ 1.904-7 Look-through rules as applied to controlled foreign corporations and other entities.

(a) *Definitions.* For purposes of section 904(d)(3) and this section, the following definitions apply:

(1) The term "separate category" means, as the context requires, any category of income described in section 904(d)(1)(A), (B), (C), (D), (E), (F), (G), (H), or (I) and in § 1.904-6 (b), (d), (e), (f), and (g), or any category of earnings and profits to which income described in such provisions is attributable.

(2) The term "controlled foreign corporation" has the meaning given such term by section 957 (taking into account the special rule for certain captive insurance companies contained in section 953(c)).

(3) The term "United States shareholder" has the meaning given such term by section 951(b) (taking into account the special rule for certain captive insurance companies contained in section 953(c)).

(b) *In general.* Except as otherwise provided in section 904(d)(3) and this section, dividends, interest, rents, and royalties received or accrued by a taxpayer from a controlled foreign corporation in which the taxpayer is a United States shareholder shall be treated as general limitation income.

(c) *Rules for specific types of inclusions and payments—(1) Subpart F inclusions—(i) Rule.* Any amount included in gross income under section 951(a)(1)(A) shall be treated as income in a separate category to the extent the amount so included is attributable to income received or accrued by the

controlled foreign corporation that is described as income in such category. For purposes of this paragraph, the priority rules of § 1.904(d)-6(j) shall apply prior to application of the rules of this paragraph.

(ii) *Examples.* The following examples illustrate the application of this paragraph (c)(1):

Example (1). Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. S earns \$200 of net income, \$85 of which is foreign base company shipping income, \$15 of which is foreign personal holding company income, and \$100 of which is non-Subpart F general limitation income. No foreign tax is imposed on the income. One hundred dollars (\$100) of S's income is Subpart F income taxed currently to P under section 951(a)(1)(A). Because \$85 of the Subpart F inclusion is attributable to shipping income of S, \$85 of the Subpart F inclusion is shipping income to P. Because \$15 of the Subpart F inclusion is attributable to passive income of S, \$15 of the Subpart F inclusion is passive income to P.

Example (2). Controlled foreign corporation S is a wholly-owned subsidiary of domestic corporation P. S is a financial services entity. P manufactures cars. In 1987, S earns \$200 of interest income unrelated to its banking business and \$900 of interest related to its banking business. Assume that S pays no foreign taxes and has no expenses. All of S's income is included in P's gross income as foreign personal holding company income. Because S is a financial services entity, income that would otherwise be passive income is considered to be financial services income. Therefore, P treats the entire Subpart F inclusion as financial services income.

Example (3). Controlled corporation S is a wholly-owned subsidiary of domestic corporation P. P is a financial services entity and S manufactures cars. In 1987, S earns \$200 of passive income that is Subpart F income and \$900 of general limitation non-Subpart F income. Assume that S pays no foreign taxes on its passive earnings. P includes the \$200 of Subpart F income in gross income. Because P is a financial services entity, the inclusion will be financial services income to P.

Example (4). Controlled foreign corporation S is a wholly-owned subsidiary of domestic corporation P. S owns 40 percent of foreign corporation A, 45 percent of foreign corporation B, 30 percent of foreign corporation C and 20 percent of foreign corporation D. A, B, C, and D are noncontrolled section 902 corporations. In 1987, S's only income is a \$100 dividend from each foreign corporation. Assume that S pays no foreign taxes and has no expenses. All \$400 of the income is foreign personal holding company income and is included in P's gross income. P must include \$100 in its separate limitation for dividends from A, \$100 in its separate limitation for dividends from B, \$100 in its separate limitation for dividends from C, and \$100 in its separate limitation for dividends from D.

(2) *Interest*—(i) *In general.* Any interest that is received or accrued from

a controlled foreign corporation by a taxpayer that is a United States shareholder in such foreign corporation shall be treated as income in a separate category to the extent it is allocable to income of the controlled foreign corporation in that category. If related person interest (as defined in this paragraph (c)(2)(ii)) is received or accrued from a controlled foreign corporation by two or more persons, the amount of interest received or accrued by each person that is allocable to any separate category of income shall be determined by multiplying the amount of related person interest allocable to that separate category of income by a fraction. The numerator of the fraction is the amount of related person interest received or accrued by that person and the denominator is the total amount of related person interest paid or accrued by the controlled foreign corporation.

(ii) *Allocating expenses including interest paid to a related person.* If interest is paid or accrued by a controlled foreign corporation to any United States shareholder in such corporation (or to any related controlled foreign corporation within the meaning of paragraph (g) of this section) ("related person interest"), such related person interest and other expenses of a controlled foreign corporation shall be allocated and apportioned in the following manner:

(A) Gross income in each separate category shall be determined;

(B) Any expenses, including unrelated person interest, that are definitely related expenses shall be directly allocated and apportioned under the principles of § 1.861-8 to, and reduce, income in each separate category;

(C) Any expenses, excluding interest, that are not definitely related expenses shall be apportioned under the principles of § 1.861-8 to, and reduce, income in each separate category;

(D) Related person interest shall be allocated to and shall reduce (but not below zero) the amount of passive foreign personal holding company income as determined after the application of paragraph (c)(2)(ii) (B) and (C) of this section;

(E) To the extent that related person interest exceeds passive foreign personal holding company income as determined after the application of paragraph (c)(2)(ii) (B) and (C) of this section, the related person interest shall be allocated to separate categories other than passive income according to the following formula:

Related person interest minus Related person interest allocated under paragraph (c)(2)(ii)(D) times Value (as determined under § 1.861-8) of assets in a separate category (other than passive) divided by Value (as determined under § 1.861-8) of all assets (other than passive)

(F) Interest expense other than definitely related interest and related person interest ("unrelated person interest expense") shall be allocated according to the following formula:

Unrelated person interest expense allocable to a separate category equals Total unrelated person interest times Value of adjusted assets in a separate category divided by Value of adjusted total assets

(iii) *Value (as determined under § 1.861-8) of assets.* For purposes of this section, the value of assets shall be determined under the principles of § 1.861-8. For this purpose, the value of assets in any category shall be reduced by the principal amount of any indebtedness to the extent that interest on such indebtedness is definitely related and therefore directly allocated to income in such category.

(iv) *Adjusted assets.* Adjusted assets in a separate category equals the value of assets in a separate category minus the related person debt in that category for the year. Adjusted total assets equals the value of total assets minus the total related person debt for the year. Related person debt allocable to assets in a separate category shall be determined according to the following formula:

Related person debt allocated to a separate category equals Total related person debt times Related person interest allocable to a separate category under paragraph (c)(2)(ii) (D) or (E) divided by All related person interest

The term "total related person debt" means the sum of the principle amounts of obligations of a controlled foreign corporation owed to any United States shareholder of such corporation or to any controlled foreign corporation related to such shareholder (within the meaning of paragraph (g) of this section).

(v) *Examples.* The following examples illustrate the operation of this paragraph (c)(2).

Example (1). Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. In 1987, S earns \$200 of foreign personal holding company income that is passive income. S also earns \$100 of foreign base company sales income that is general limitation income. S has \$2000 of passive assets and \$2000 of general limitation assets. In 1987, S makes a \$150 interest payment to P with respect to a \$1500 loan from P. S also pays \$100 of interest to an

unrelated person on a \$1000 loan from that person. S has no other expenses.

Under paragraph (c)(2)(ii)(D) of this section, the \$150 related person interest payment is allocable to S's passive foreign personal holding company income. Therefore, the \$150 interest payment is passive income to P.

Because the entire related person interest payment is allocated to passive income under paragraph (c)(2)(ii)(D) of this section, none of the related person interest payment is allocable to general limitation income under paragraph (c)(2)(ii)(E) of this section.

Under paragraph (c)(2)(iv) of this section, the entire amount of the related person debt is allocable to passive assets ($\$1500 = \$1500 \times \$150/\150).

Under paragraph (c)(2)(ii)(F) of this section, \$20 of interest expense paid to an unrelated person is allocated to passive income ($\$20 = \$100 \times (\$2000 - \$1500)/(\$4000 - \$1500)$). Eighty dollars (\$80) of the interest expense paid to an unrelated person is allocated to general limitation income ($\$80 = \$100 \times (\$2000 - \$0)/(\$4000 - \$1500)$).

Example (2). Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. In 1987, S earns \$100 of foreign personal holding company income that is passive income. S also earns \$100 of foreign base company sales income that is general limitation income. S has \$1000 of general limitation assets and \$1000 of passive assets. In 1987, S makes a \$150 interest payment to P on a \$1500 loan from P and has \$20 of general and administrative expenses (G & A). S also makes a \$25 interest payment to an unrelated person on a \$250 loan from the unrelated person. S has no other expenses.

Under paragraph (c)(2)(ii)(C) of this section, \$10 of the G & A is allocable to S's passive foreign personal holding company income and \$10 of the G & A is allocable to S's general limitation income.

Under paragraph (c)(2)(ii)(D) of this section, \$90 of the interest payment to P is allocable to S's passive foreign personal holding company income.

Under paragraph (c)(2)(ii)(E) of this section, the additional \$60 of related person interest expense is allocated to general limitation income ($\$60 = \$60 \times \$1000/\1000).

Under paragraph (c)(2)(iv) of this section, related person debt is allocated to passive and general limitation assets. The related person debt allocable to passive assets equals \$900 ($\$900 = \$1500 \times \$90/\150). The related party debt allocable to general limitation assets equals \$600 ($\$600 = \$1500 \times \$60/\150).

Under paragraph (c)(2)(ii)(F) of this section, \$5 of the \$25 of interest expense paid to an unrelated person is allocated to passive income ($\$5 = \$25 \times (\$1000 - \$900)/(\$2000 - \$1500)$). Twenty dollars (\$20) of the interest expense paid to an unrelated person is allocated to general limitation income ($\$20 = \$25 \times (\$1000 - \$600)/(\$2000 - \$1500)$).

Example (3). Controlled foreign corporation T is a wholly-owned subsidiary of S, a controlled foreign corporation. S is a wholly-owned subsidiary of P, a domestic corporation. S and T are incorporated in the same country. In 1987, P sells tractors to T,

which T sells to X, a foreign corporation that is related to both S and T and is organized in the same country as S and T. S makes a loan to X to finance the tractor sales. Assume that the interest earned by S from financing the sales is export financing interest that is neither related person factoring income nor foreign personal holding company income. S earns no passive income. S makes a \$100 interest payment to P. The \$100 of interest paid to P is allocable under the look-through rules of paragraph (c)(2)(ii) of this section to the export financing interest earned by S and is general limitation income to P.

Example (4). Controlled foreign corporation S is a wholly-owned subsidiary of domestic corporation P. P manufactures industrial equipment in the United States and sells some of the equipment to S for use in S's business. P provides financing to S in connection with the purchase of P's equipment. In 1987, S pays P \$100 of interest relating to the financing. S also pays P \$150 on a loan unrelated to the financing. In 1987, S has assets that generate general limitation income and income attributable to dividends from a noncontrolled section 902 corporation. Under paragraph (c)(2)(ii) of this section, \$150 of the interest payments to P are allocable to S's general limitation income and \$100 are allocable to S's dividends from a noncontrolled section 902 corporation. Therefore, under the look-through rules of paragraph (c)(2)(i) of this section, \$150 of interest is general limitation income to P and \$100 of interest is included in P's separate limitation for dividends from the noncontrolled section 902 corporation.

(3) *Rents and Royalties.* Any rents or royalties received or accrued from a controlled foreign corporation in which the taxpayer is a United States shareholder shall be treated as income in a separate category to the extent they are allocable to income of the controlled foreign corporation in that category under the principles of § 1.861-8.

(4) *Dividends—(i) Look-through rule.* Any dividend paid or accrued out of the earnings and profits of any controlled foreign corporation shall be treated as income in a separate category in proportion to the ratio of the portion of earnings and profits attributable to income in such category to the total amount of earnings and profits of the controlled foreign corporation.

(ii) *Special rule for dividends attributable to certain loans.* If a dividend is distributed to a taxpayer by a controlled foreign corporation, that controlled foreign corporation is the recipient of loan proceeds from a related person (within the meaning of paragraph (g) of this section), and the purpose of such loan is to alter the characterization of the dividend for purposes of this section, then, to the extent of the principal amount of the loan, the dividend shall be characterized with respect to the earnings and profits of the related person lender rather than with

respect to the earnings and profits of the dividend payor.

(iii) *Examples.* The following examples illustrate the application of this paragraph (c)(4).

Example (1). Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. In 1987, S has earnings and profits of \$1,000, \$600 of which is attributable to manufacturing income that is not Subpart F income and \$400 of which is attributable to dividends received by S from a noncontrolled section 902 corporation, T. T is incorporated and operates in the same country as S, and S has a 50 percent ownership interest in T. In December of 1987, S pays a dividend of \$200, all of which is attributable to earnings and profits earned in 1987. Six-tenths of the dividend, \$120, is treated as general limitation income because six-tenths of S's earnings and profits are attributable to general limitation income. Four-tenths of the dividend, \$80, is treated as income subject to a separate limitation for dividends from a noncontrolled section 902 corporation because four-tenths of S's earnings and profits are attributable to dividends from T, a noncontrolled section 902 corporation.

Example (2). A, a United States person, has been the sole shareholder in controlled foreign corporation X since its organization on January 1, 1963. X's earnings and profits for 1963 through the end of 1987 totaled \$3,000. A sells his stock in X at the end of 1987 and realizes a gain of \$4,000. Of the total \$4,000 gain, \$3,000 (A's share of the post-1962 earnings and profits) is includible in A's gross income as a dividend and is subject to the look-through rules. The remaining \$1,000 of the gain is includible as gain from the sale or exchange of the X stock and is passive income to A.

(d) *Effect of exclusions from Subpart F income—(1) De minimis amount of Subpart F income.* If the sum of a controlled foreign corporation's foreign base company income (determined without regard to section 954(b)(5)) and gross insurance income for the taxable year is less than the lesser of 5 percent of gross income or \$1,000,000, then all such income shall be treated as general limitation income.

(2) *Exception for certain income subject to high foreign tax.* For purposes of the dividend look-through rule of paragraph (c)(4)(i) of this section, an item of net income that would otherwise be passive income (after application of the priority rules of § 1.904-6 (f)) that is received or accrued by a controlled foreign corporation shall be treated as general limitation income, and the earnings and profits attributable to such income shall be treated as general limitation earnings and profits, if the taxpayer establishes to the satisfaction of the Secretary that such income was subject to an effective rate of income tax imposed by a foreign country greater

than 90 percent of the maximum rate of tax specified in section 11 (with reference to section 15, if applicable). The preceding sentence has no effect on amounts (other than dividends) paid or accrued by a controlled foreign corporation to a United States shareholder of such controlled foreign corporation to the extent those amounts are allocable to passive income of the controlled foreign corporation. For treatment of foreign taxes imposed on income described in this paragraph (d)(2), see § 1.904-8.

(3) *Examples.* The following examples illustrate the application of this paragraph.

Example (1). Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. In 1987, S earns \$100 of gross income, \$4 of which is interest that is Subpart F foreign personal holding company interest and \$96 of which is gross manufacturing income that is not Subpart F income. S has no other earnings for 1987. S has no expenses and pays no foreign taxes. S pays P a \$100 dividend. Under the de minimis rule of section 954(b)(3), none of S's income is treated as foreign base company income. Therefore, all of S's income is treated as general limitation income. The entire \$100 dividend is general limitation income to P.

Example (2). Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. In 1987, S earns \$50 of shipping income of a type that is foreign base company shipping income. S also earns \$50 of dividends from T, a foreign corporation in which S owns 45 percent of the voting stock, and \$50 of dividends from U, a foreign corporation in which S owns 5 percent of the voting stock. Foreign persons hold the remaining voting stock of both T and U. S, T, and U are all incorporated in different foreign countries. The dividends received by S from T and U are of a type that would normally be Subpart F foreign personal holding company income that is passive income. However, under § 1.904-6(j), the dividends from T are dividends from a noncontrolled section 902 corporation rather than passive income. S has no expenses. The earnings and profits of S are equal to the net income of S. The dividends and the shipping income are taxed abroad by S's country of incorporation at an effective rate of 40 percent. P establishes to the satisfaction of the Secretary that the effective rate of tax on both the dividends and the shipping income exceeds 90 percent of the maximum United States tax rate. Therefore, under section 954(b)(4), neither the shipping income nor the dividends are currently taxed to P under Subpart F. Under paragraph (d)(2) of this section, S's earnings attributable to the dividends from U are treated as earnings attributable to general limitation income.

In 1988, S has no earnings and pays a \$150 dividend to P. The dividend is paid out of S's post-1986 pool of earnings and profits. One-third of the dividend, \$50, is attributable to S's shipping earnings, one-third, \$50, is attributable to the dividend from T, and one-third, \$50 is attributable to the dividend from

U. Under section 904(d)(2)(E) and paragraph (c)(4) of this section, one-third of the dividend is shipping income, one-third is a from a noncontrolled section 902 corporation, T, and one-third is general limitation income to P.

(e) *Treatment of subpart F income in excess of 70 percent of gross income—*
(1) *Rule.* If the sum of a controlled foreign corporation's foreign base company income (determined without regard to section 954(b)(5)) and gross insurance income for the taxable year exceeds 70 percent of the gross income, then all of the controlled foreign corporation's gross income shall be treated as foreign base company income and, thus, included in a United States shareholder's gross income. However, the inclusion in gross income of an amount that would not otherwise be Subpart F income does not affect its character for purposes of determining whether the income is within a particular category of income.

(2) *Example.* The following example illustrates the application of this paragraph.

Example. Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. S earns \$100, \$75 of which is foreign base company shipping income, as defined in section 954(f), and \$25 of which is non-Subpart F services income. S's gross and net income are equal. The \$75 of shipping income includes \$10 of rental income that also meets the definition of foreign personal holding company income. That \$10 is treated as shipping income to S under § 1.904-6(f). Under the 70 percent full inclusion rule of section 954(b)(3)(B), the entire \$100 is foreign base company income currently taxable to P under section 951. Because \$75 of the \$100 section 951 inclusion is attributable to S's shipping income, \$75 of the inclusion is shipping income to P. The remaining \$25 of the inclusion is treated as general limitation income to P because \$25 is attributable to S's general limitation income.

(f) *Modification of look-through rule for certain income—*(1) *High withholding tax interest.* If a taxpayer receives or accrues interest from a controlled foreign corporation that is a financial services entity, and the interest would be described as high withholding tax interest if section 904(d)(3) and paragraph (c)(2) of this section did not apply, then the interest shall be treated as high withholding tax interest to the extent that the interest is allocable under section 904(d)(3) and paragraph (c)(2)(i) of this section to financial services income of the controlled foreign corporation.

(2) *Dividends from a noncontrolled section 902 corporation.* If a United States shareholder receives or accrues income from a controlled foreign corporation that is attributable to dividends from a noncontrolled section

902 corporation, such income shall be subject to a separate limitation for such dividends except as provided in § 1.904-6(g)(2)(i).

(3) *Example.* The following example illustrates the operation of paragraph (f)(1) of this section.

Example. Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. S is a financial services entity. In 1988, S earns \$80 of financial services income and \$20 of high withholding tax interest. S makes a \$100 interest payment to P. The interest payment to P is subject to a withholding tax of 15 percent. Twenty dollars (\$20) of the interest payment to P is considered to be high withholding tax interest because, under section 904(d)(3), it is allocable to the high withholding tax interest earned by S. The remaining eighty dollars (\$80) of the interest payment is also treated as high withholding tax interest to P because, under paragraph (f)(1) of this section, interest that is subject to a high withholding tax but would not be considered to be high withholding tax interest under the look-through rules of paragraph (c)(2) of this section, shall be treated as high withholding tax interest to the extent that the interest would have been treated as financial services income under the look-through rules of paragraph (c)(2)(i) of this section.

(g) *Application of look-through rules to related controlled foreign corporations.* The principles of paragraphs (b), (c), and (f) of this section shall apply to distributions and payments from a controlled foreign corporation to a related controlled foreign corporation. For purposes of the preceding sentence, two controlled foreign corporations shall be considered to be related to each other if one controlled foreign corporation owns, directly or indirectly, stock possessing more than 50 percent of the total voting power of all classes entitled to vote or of the total value of stock of such corporation or the same United States shareholders own, directly or indirectly, stock possessing 50 percent or more of the total voting power of all classes entitled to vote or of the total value of stock of each controlled foreign corporation. For purposes of this preceding sentence, indirect ownership shall be determined under section 958 (b) and the regulations thereunder.

(h) *Application of look-through rules to certain domestic corporations.* If a domestic corporation meets the 80 percent foreign business requirements described in section 861(c)(1), the look-through rules of paragraphs (b), (c), and (f) apply to interest, rents or royalties paid by or accrued by the domestic corporation to a related person within the meaning of section 861(c)(2)(B).

(i) *Application of look-through rules to partnerships and other pass-through entities*—(1) *General rule.* Except as provided in paragraph (i)(2) of this section, a partner's distributive share of partnership income shall be characterized as income in a separate category to the extent that the distributive share is a share of income earned or accrued by the partnership in such category. Payments to a partner described in section 707 (e.g., payments to a partner not acting in capacity as a partner) shall be characterized as income in a separate category to the extent that the income is attributable to income earned or accrued by the partnership in such category and the payments would be characterized under the look-rules of this section if the partnership were a foreign corporation. The disposition of a partnership interest shall be treated as a disposition of the partner's proportionate share of each of the assets of the partnership for purposes of characterizing the gain or loss allocable to a separate category. For purposes of allocating the purchase price of the interest and the seller's basis in the interest to partnership assets, the principles of § 1.751-1(a) will apply. The rules of this paragraph (i)(1) also apply to inclusions and gains with respect to, and payments from, an S corporation, simple trust, and any other pass-through entity described in § 1.904-6(e)(3)(iii)(A).

(2) *Exception for certain partnership interests.* Except as otherwise provided, if any limited partner or corporate general partner owns less than 10 percent (by value) of the beneficial interest in a partnership, the partner's distributive share of partnership income from the partnership shall be passive income to the partner, and the partner's distributive share of partnership deduction from the partnership shall be allocated and apportioned under the principles of § 1.861-8 only to the partner's passive income from that partnership. However, if a less than 10 percent partnership interest is held in the ordinary course of a partner's active trade or business, the rules of paragraph (i)(1) of this section shall apply and the partner's distributive share of partnership income shall be characterized as income in a separate category to the extent that the distributive share is a share of income earned or accrued by the partnership in such category. A partnership interest will be considered to be held in the ordinary course of a partner's active trade or business if the partner (or a member of the partner's affiliated group of corporations (within the meaning of

section 1504(a) and without regard to section 1504(b)(3))) engages (other than through a less than 10 percent interest in a partnership) in the same or similar trade or business as the partnership. To the extent that the partner's distributive share of income from the partnership is a share of high withholding tax interest received or accrued by the partnership, the partner's distributive share of partnership income from the partnership shall be high withholding tax interest to the partner. Any gain or loss from the sale of a partnership interest described in this paragraph (i)(2) shall be treated as passive income or loss. The rules of this paragraph (i)(2) apply to less than 10 percent owners of other passthrough entities described in paragraph (i)(1) of this section.

(j) *Ordering rules*—(1) *In general.* The rules of paragraph (j)(2) of this section apply for purposes of determining the character of income received or accrued by a person from a related person if the payor or another related person also received or accrues income from the recipient and the look-through rules apply to the income in all cases.

(2) *Specific rules.* For purposes of characterizing income under this paragraph, the following types of income are characterized in the order stated:

- (i) Rent, royalty, interest, or other amounts definitely related to income of the payor;
- (ii) Interest that is not definitely related to income of the payor;
- (iii) Subpart F inclusions;
- (iv) Dividend distributions.

The amount of interest paid or accrued by a person to a related person shall be offset against and eliminate any interest received or accrued by a person from that related person before application of the ordering rules of this paragraph.

(k) *Examples.* The following examples illustrate the application of paragraphs (g), (h), (i), and (j) of this section.

Example (1). S and T, controlled foreign corporations, are wholly-owned subsidiaries of P, and domestic corporation. S and T are incorporated in two different foreign countries and T is a financial services entity. In 1987, S earns \$100 of income that is general limitation foreign base company sales income. After expenses, including a \$50 interest payment to T, S's income is subject to foreign tax at an effective rate of 40 percent. P elects to exclude S's \$50 of net income from Subpart F under section 954 (b) (4). T earns \$350 of income that consists of \$300 of Subpart F financial services income and \$50 of interest received from S. The \$50 of interest is foreign personal holding company income in T's hands because section 954 (c)(3)(A)(i) (same country exception for interest payments) does not apply. The \$50 of interest is also general limitation income to T because the look-

through rules of paragraph (c)(2)(i) of this section apply to characterize the interest payment. Thus, with respect to T, P includes in its gross income \$50 of general limitation foreign personal holding company income and \$300 of financial services income.

Example (2). The facts are the same as in example (1) except that, instead of earning \$100 of general limitation foreign base company sales income, S earns \$100 of foreign personal holding company income that is passive income. Although the interest payment to T would otherwise be passive income, because T is a financial services entity, under § 1.904-6(e)(1), the income is treated as financial services income in T's hands. Thus, P's entire \$350 section 951 inclusion consists of financial services income.

Example (3). P, a domestic corporation, wholly owns S, a domestic corporation. S meets the 80 percent active foreign business requirements described in section 861 (c) (1). In 1987, S's earnings consist of \$100 of shipping income and \$100 of high withholding tax interest. S makes a \$100 interest payment to P. The interest payment to P is subject to the look-through rules of paragraph (c)(2)(i) of this section, and is characterized as shipping income and high withholding tax interest to the extent that it is allocable to such income in S's hands.

Example (4). PS is a domestic partnership that is the sole shareholder of controlled foreign corporation S. PS has two general partners, A and B. A and B each have a greater than 10 percent interest in PS. PS also has two limited partners, C and D. C has a 50 percent interest in the partnership and D has a 9 percent interest. A, B, C and D are all United States persons. In 1987, S has \$100 of general limitation non-subpart F income on which it pays no foreign tax. S pays a \$100 dividend to PS. The dividend is the only income of PS. Under the look-through rule of paragraph (c) (4) of this section, the dividend to PS is general limitation income. Under paragraph (i) (1) of this section, A's, B's, and C's distributive shares of PS's income are general limitation income. Under paragraph (i) (2) of this section, because D is a partner with a less than 10 percent interest in PS, D's distributive share of PS's income is passive income.

Example (5). P has a 25 percent interest in partnership PS that he sells to X for \$110. P's basis in his partnership interest is \$35. PS has the following assets: A passive asset with a basis of \$80 and a fair market value of \$40 and a general limitation asset with a basis of \$80 and a fair market value of \$400. None of the assets in the partnership are described in section 751 (c) or (d). Under the principles of § 1.751-1 (a), P recognizes \$85 of general limitation gain (\$100 - \$15) and \$10 of passive loss (\$10 - \$20) on the sale of his partnership interest.

Example (6). P, a domestic corporation, owns 100 percent of the stock of S, a controlled foreign corporation, and S owns 100 percent of the stock of T, a controlled foreign corporation. S has \$100 of passive foreign personal holding company income from unrelated persons and \$100 of general limitation income. S also has \$50 of interest

income from T. S pays T \$100 of interest. Under paragraph (j) (2) of this section, the \$100 interest payment from S to T is reduced for limitation purposes to the extent of the \$50 interest payment from T to S before application of the rules in paragraph (c) (2) (ii) of this section. Therefore, the interest payment from T to S is disregarded. S is treated as if it paid \$50 of interest to T, all of which is allocable to S's passive foreign personal holding company income. Therefore the \$50 interest payment from S to T is passive income.

Example (7). P, a domestic corporation, owns 100 percent of the stock of S, a controlled foreign corporation, and S owns 100 percent of the stock of T, a controlled foreign corporation. In 1987, S earns \$100 of passive foreign personal holding income and \$100 of general limitation non-Subpart F sales income from unrelated persons and \$100 of general limitation non-Subpart F interest income from a related person, W. S pays \$150 of interest to T. T earns \$200 of general limitation sales income from unrelated persons and the \$150 interest payment from S. T pays \$100 of interest.

Under paragraph (j) (2) of this section, the \$100 interest payment from T to S reduces the \$150 interest payment from S to T. S is treated as though it paid \$50 of interest to T. T is treated as though it made no interest payment to S.

Under paragraph (j) (2) (ii) of this section, the remaining \$50 interest payment from S to T is then characterized. The interest payment is first allocable under the rules of paragraph (c) (2) (ii) of this section to S's passive income. Therefore, the \$50 interest payment to T is passive income. The interest income is foreign personal holding company income in T's hands. T, therefore, has \$50 of Subpart F passive income and \$200 of non-Subpart F general limitation income.

Under paragraph (j) (2) (iii) of this section, Subpart F inclusions are characterized next. P has a Subpart F inclusion with respect to T of \$50 that is attributable to passive income of T and is treated as passive income to P.

Example (8). P, a domestic corporation, owns 100 percent of the stock of S, a controlled foreign corporation, and S owns 100 percent of the stock of T, a controlled foreign corporation. P also owns 100 percent of the stock of U, a controlled foreign corporation. In 1987, S earns \$100 of passive foreign personal holding company income and \$200 of non-Subpart F general limitation income from unrelated persons. S also receives \$150 of dividend income from T. S pays \$100 of interest to T and \$100 of interest to U. U earns \$300 of non-Subpart F general limitation income and the \$100 of interest received from S. U pays a \$100 royalty to T. T earns the \$100 interest payment received from S and the \$100 royalty received from U.

Under paragraph (j) (2) (i) of this section, the royalty paid by U to T is characterized first. Assume that the royalty is definitely related to U's general limitation income. Also assume that the royalty is not Subpart F income to T. With respect to T, the royalty is general limitation income.

Under paragraph (j) (2) (ii) of this section, the interest payments from S to T and U are characterized next. This characterization is

done without regard to any dividend income received by S because, under paragraph (j) (2) of this section, dividends are characterized after interest payments from a related person. The interest payments are first allocable to S's passive income under paragraph (c) (2) (ii) (D) of this section. Therefore, \$50 of the interest payment to T is passive and \$50 of the interest payment to U is passive. The remaining \$50 paid to T is general limitation income and the remaining \$50 paid to U is general limitation income. The entire amount of the interest payments to T and U is subpart F foreign personal holding company income to both recipients.

Under paragraph (j) (2) (iii) of this section, P has a \$100 subpart F inclusion with respect to T that is characterized next. Fifty dollars (\$50) of the Subpart F inclusion is passive income to P because it is attributable to the passive income portion of the interest income received by T from S, and \$50 of the inclusion is treated as general limitation income to P because it is attributable to the general limitation portion of the interest income received by T from S.

Under paragraph (j) (2) (iii) of this section, P also has a \$100 subpart F inclusion with respect to U. Fifty dollars (\$50) of the subpart F inclusion is passive income to P because it is attributable to the passive portion of the interest income received by U from S, and \$50 of the inclusion is general limitation income to P because it is attributable to the general limitation portion of the interest income received by U from S.

Under paragraph (j) (2) (iv) of this section, the \$150 distribution from T to S is characterized next. One-hundred dollars (\$100) of the distribution is out of earnings and profits attributable to previously taxed income. Therefore, only \$50 is a dividend that is subject to the look-through rules of paragraph (d) of this section. The \$50 dividend is attributable to T's general limitation income and is general limitation income to S in its entirety.

Example (9). P, a domestic corporation, owns 100 percent of the stock of S, a controlled foreign corporation, and S, owns 100 percent of the stock of T, a controlled foreign corporation. P also owns 100 percent of the stock of U, a controlled foreign corporation. S, T and U are all incorporated in the same foreign country. In 1987, S earns \$100 of passive foreign personal holding income and \$200 of general limitation non-Subpart F income from unrelated persons. S pays \$100 of interest to T and \$100 of interest to U. U earns \$300 of general limitation non-subpart F income and the \$100 of interest received from S. T's only income is the \$100 interest payment received from S.

Under paragraph (j) (2) (ii) of this section, the interest payments from S to T and U are characterized. The interest payments are first allocated under the netting rule of paragraph (c) (2) (ii) (D) to S's passive income. Therefore, under that provision and paragraph (c) (2) (i) of this section, \$50 of the interest payment to T is passive income to T and \$50 of the interest payment to U is passive income to U. The remaining \$50 paid to T is general limitation income and the remaining \$50 paid to U is general limitation income.

Under paragraph (j) (2) (iii) of this section, any subpart F inclusion of P is determined

and characterized next. Under paragraph (g) of this section, paragraphs (c) (2) (i) and (c) (2) (ii) apply not only for purposes of determining the separate category of income of S to which the interest payments from S to T and U are allocable but also for purposes of determining the Subpart F income of T and U. Although the interest payments from S to T and U are "same country" interest payments that would otherwise be excludable from T's and U's Subpart F income under section 954 (c) (3) (A) (i), section 954 (c) (3) (B) provides that the exception for same country payments between related persons shall not apply to the extent such payments have reduced the Subpart F income of the payor. In this case, \$50 of the \$100 interest payment from S to T reduced S's Subpart F income and \$50 of the \$100 interest payment from S to U reduced the remaining \$50 of S's Subpart F income. Therefore, T has \$50 of Subpart F income that is passive income and U has \$50 of Subpart F income that is passive income. P includes \$100 of Subpart F income in gross income that is passive income to P.

The remaining \$50 of interest paid by S to T and the remaining \$50 of interest paid by S to U is not Subpart F income to T or U because it did not reduce S's Subpart F income and is therefore eligible for the same country exception.

(1) *Application of section 904 (g)—(1) In general.* For purposes of determining the portion of an interest payment that is allocable to income earned or accrued by a controlled foreign corporation from sources within the United States under section 904 (g) (3), the rules in paragraph (1) (2) of this section apply. For purposes of determining the portion of a dividend paid or accrued by a controlled foreign corporation that is treated as from sources within the United States under section 904 (g) (4), the rules in paragraph (1) (4) of this section apply. For purposes of determining the portion of an amount included in gross income under section 951 (a) that is attributable to income of the controlled foreign corporation from sources within the United States under section 904 (g) (2), the rules in paragraph (1) (5) of this section apply. In order to determine whether section 904 (g) applies, section 904 (g) (5) (exception if controlled foreign corporation has a de minimis amount of United States source income) shall be applied to the total amount of earnings and profits of a controlled foreign corporation for a taxable year without regard to the characterization of those earnings under section 904 (d).

(2) *Treatment of interest payments.* If interest is received or accrued by a United States shareholder or a person related to a United States shareholder (within the meaning of paragraph (c) (2) (ii) of this section) from a controlled foreign corporation, the interest shall be considered to be

allocable to income of the controlled foreign corporation from sources within the United States for purposes of section 904(d) to the extent that the interest is allocable under paragraph (c)(2)(ii)(D) of this section to passive income that is from sources within the United States. If related person interest is less than passive income, the related person interest will be allocable to United States source passive income based on the ratio of United States source passive income to total passive income. To the extent that related person interest exceeds passive income, and, therefore, is allocated under paragraph (c)(2)(ii)(E) of this section to income in a separate category other than passive, the following formula applies in determining the portion of the interest payment that is from sources within the United States:

The amount of the interest payment allocated to the separate category under paragraph (c)(2)(ii)(E) of this section times value of domestic assets in that category divided by value of total assets in that category

(3) *Examples.* The following examples illustrate the application of this paragraph.

Example (1). Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. In 1988, S pays P \$300 of interest to P. S has no other expenses. In 1988, S has \$3000 of assets that generate \$650 of foreign source general limitation sales income and a \$1000 loan to an unrelated foreign person that generates \$20 of foreign source passive interest income. S also has a \$400 loan to an unrelated United States person that generates \$70 of United States source passive income and \$4000 of inventory that generates \$100 of United States source general limitation income. The following chart summarizes S's assets and income:

	Foreign	U.S.	Totals
Assets:			
Pas- sive....	1,000	4,000	5,000
Gener- al	3,000	4,000	7,000
Total..	4,000	8,000	12,000
Income:			
Pas- sive....	20	70	90
Gener- al	650	100	750
Total..	670	170	840

Under paragraph (c)(2)(ii)(D) of this section, \$90 of the related person interest payment is allocable to S's passive income. Under paragraph (l)(2) of the section, \$70 is from sources within the United States and \$20 is from foreign sources.

Under paragraph (c)(2)(ii)(E) of this section, the remaining \$210 of the related person interest payment is allocated to general

limitation income. Under paragraph (l)(2) of this section, \$120 of the remaining \$210 is allocated to general limitation United States source income (\$120 = \$210 x \$4000/\$7000). Ninety dollars (\$90) of the remaining \$210 of the related person interest payment is allocated to general limitation foreign source income. (\$90 = \$210 x \$3000/\$7000).

Example (2). Controlled foreign corporation S is a wholly-owned subsidiary of P, a domestic corporation. In 1988, S pays \$300 of interest to P. S has no other expenses. In 1988, S has \$4000 of assets that generate \$650 of foreign source general limitation manufacturing income and a \$1000 loan to an unrelated foreign person that generates \$100 of foreign source passive interest income. S has \$500 of shipping assets that generate \$200 of foreign source shipping income and \$500 of shipping assets that generate \$200 of United States source shipping income. S also has a \$1,000 loan to an unrelated United States person that generates \$100 of United States source passive income. S's passive income is not also described as shipping income. The following chart summarizes S's assets and income:

	Foreign	U.S.	Totals
Assets:			
Pas- sive....	1,000	1,000	2,000
Ship- ping ...	500	500	1,000
Gener- al	4,000	0	4,000
Total..	5,500	1,500	7,000
Income:			
Pas- sive....	100	100	200
Ship- ping ...	200	200	400
Gener- al	650	0	650
Total..	950	300	1,250

Under paragraph (c)(2)(ii)(D) of this section, \$200 of the related person interest payment is allocable to S's passive income. Under paragraph (l)(2) of this section, \$100 of this amount is from foreign sources and \$100 is from United States sources.

Under paragraph (c)(2)(ii)(E) of this section, \$80 of the remaining \$100 of the related person interest payment is allocated to general limitation income (\$80 = \$100 x \$4000/\$5000) and \$20 is allocated to shipping income (\$20 = \$100 x \$1000/\$5000).

Under paragraph (l)(2) of this section, none of \$80 of the interest payment allocated to general limitation income is allocated to United States source income (\$0 = \$80 x \$0/\$4000). Therefore, \$80 is allocated to general limitation foreign source income.

Under paragraph (l)(2) of this section, \$10 of the \$20 of the interest payment allocated to the shipping income is allocated to United States source income (\$10 = \$20 x \$500/\$1000) and \$10 of the \$20 is allocated to foreign source income (\$10 = \$20 x \$500/\$1000).

(4) *Treatment of dividend payments—*
(i) *Rule.* Any dividend or distribution treated as a dividend under this section that is received or accrued by a United States shareholder from a controlled foreign corporation shall be treated as income in a separate limitation derived from sources within the United States in proportion to the ratio of the portion of the earnings and profits of the controlled foreign corporation in the corresponding separate category from United States sources to the total amount of earnings and profits of the controlled foreign corporation in that separate category.

(ii) *Determination of earnings and profits from United States sources.* In order to determine the portions of earnings and profits from United States sources and from foreign sources within each separate category, related person interest shall be allocated to the United States source portion of income in a separate category by applying the rules of paragraph (l)(2) of this section. Other expenses shall be allocated by applying the rules of paragraph (c)(2)(ii) of this section separately to the United States source income and the foreign source income in each category. For example, unrelated person interest expense that is allocated among categories of income based upon the relative amounts of assets in a category must be allocated between United States and foreign source income within each category by applying the rules of paragraph (c)(2)(ii)(F) of this section separately to United States source and foreign source assets in the separate category.

(iii) *Example.* The following example illustrates the application of this paragraph.

Example. Controlled foreign corporation, S, is a wholly owned subsidiary of P, a domestic corporation. In 1987, S has \$100 of non-Subpart F general limitation earnings and profits and \$100 of shipping earnings and profits that are not attributable to Subpart F income because the taxpayer elected to exclude the income from Subpart F income under section 954(b)(4). None of the general limitation earnings and profits are from sources within the United States, and \$50 of the shipping earnings and profits are from United States sources. In 1988, S earns \$300 of non-Subpart F general limitation earnings and profits and \$500 of non-Subpart F shipping earnings and profits. The shipping earnings and profits are attributable to income that is excluded from Subpart F under section 954(b)(4). One hundred dollars (\$100) of the general limitation earnings and profits are from sources within the United States. None of the shipping earnings and profits are from United States sources. In 1988, S pays P a \$500 dividend. Under paragraph (c)(4) of this section, \$200 of the dividend is attributable to general limitation earnings and profits (\$200 = \$500 x \$400/\$1000). Under

this paragraph (1)(3), the portion of the dividend that is attributable to general limitation earnings and profits from sources within the United States is \$50 ($\$200 \times \$100 / \400). Under paragraph (c)(4) of this section, \$300 of the dividend is attributable to shipping earnings and profits ($\$300 = \$500 \times \$600 / \1000). Under this paragraph (1)(3), the portion of the dividend that is attributable to shipping earnings and profits from sources within the United States is \$25 ($\$300 \times \$50 / \600).

(5) *Treatment of subpart F inclusions*—(i) *Rule*. Any amount included in the gross income of a United States shareholder of a controlled foreign corporation under section 951(a) shall be treated as income subject to a separate limitation that is derived from sources within the United States to the extent such amount is attributable to income of the controlled foreign corporation in the corresponding category of income from sources within the United States. In order to determine a controlled foreign corporation's taxable income and earnings and profits from sources within the United States in each separate category, the principles of paragraph (1)(4)(ii) of this section shall apply.

(ii) *Example*. The following example illustrates the application of this paragraph (1)(5).

Example. Controlled foreign corporation S is a wholly-owned subsidiary of domestic corporation, P. In 1987, S earns \$100 of Subpart F foreign personal holding company income that is passive income. Of this amount, \$40 is derived from sources within the United States. S also earns \$50 of Subpart F general limitation income. None of this income is from sources within the United States. Assume that S pays no foreign taxes and has no expenses. P is required to include \$150 in gross income under section 951(a). Of this amount, \$60 will be foreign source passive income to P and \$40 will be United States source passive income to P. Fifty dollars (\$50) will be foreign source general limitation income to P.

(6) *Treatment of section 78 amount*. For purposes of treating taxes deemed paid by a taxpayer under section 902(a) and section 960(a)(1) as a dividend under section 78, taxes that are paid or accrued with respect to United States source income in a separate category shall be treated as United States source income in that separate category.

(7) *Coordination with treaties*. If any amount of income derived from a United States-owned foreign corporation, as defined in section 904(g)(6), would be treated as derived from sources within the United States under section 904(g), and, pursuant to an income tax convention with the United States, the taxpayer chooses to avail itself of benefits of the convention that treat

such amount as arising from sources outside the United States, then such amount will be treated as foreign source income. However, section 904 (a), (b), (c), and (d), and sections 902, 907, and 960 shall be applied separately to amounts described in the preceding sentence with respect to each treaty under which the taxpayer has claimed benefits.

(m) *Order of application of sections 904 (d), (f), and (g)*. In order to apply the rules of this section, section 904(d)(1) shall first be applied to the controlled foreign corporation to determine the amount of income and earnings and profits derived by the controlled foreign corporation in each separate category. The income and earnings and profits in each separate category that is from United States sources shall then be determined. Section 904(f)(5) (A) and (B) shall then be applied to the controlled foreign corporation. Sections 904(d)(3), 904(g), and this section shall then be applied for purposes of characterizing and sourcing income received, accrued, or included by a United States shareholder in the controlled foreign corporation that is attributable or allocable to income or earnings and profits of the controlled foreign corporation.

(n) *Effective date*. Section 904(d)(3) and this section apply to distributions and section 951 inclusions of earnings and profits of a controlled foreign corporation (or other entity to which this section applies) derived during the first taxable year of the controlled foreign corporation (or other entity) beginning after December 31, 1986, and thereafter, and to payments made by a controlled foreign corporation (or other entity) during such taxable years, without regard to whether the corresponding taxable year of the recipient of the distribution or payment or of one or more of the United States shareholders of the controlled foreign corporation begins after December 31, 1986.

§ 1.904-8 Allocation of taxes.

(a) *Allocation of taxes to a separate category or categories of income*—(1) *In general*—(i) *Taxes related to a separate category of income*. The amount of taxes paid or accrued with respect to a separate category of income shall include only those taxes that are related to income in that separate category. Taxes are related to income if the income is included in the base upon which the tax is imposed. If, for example, foreign law exempts certain types of income from foreign taxes, or certain types of income are exempt from foreign tax under an income tax convention, then no taxes are

considered to be related to such income for purposes of this paragraph. As another example, if foreign law provides for a specific rate of tax with respect to certain types of income (e.g., capital gains), or certain expenses or deductions are allowed under foreign law only with respect to a particular type of income, then such provisions shall be taken into account in determining the amount of foreign tax imposed on such income. A withholding tax (unless it is a withholding tax that is not the final tax payable on the income as described in § 1.904-6(d)) is related to the income from which it is withheld. A tax that is imposed on a base that includes more than one separate category of income is considered to be imposed on income in all such categories and, thus, the taxes are related to all such categories included within the foreign country or possession's taxable income base.

(ii) *Apportionment of taxes related to more than one separate category*. If a tax is related to more than one separate category, then, in order to determine the amount of the tax paid or accrued with respect to each separate category, the tax shall be apportioned among the separate categories on the basis of the following formula:

Foreign tax related to more than one separate category times net income subject to that foreign tax included in a separate category divided by net income subject to that foreign tax

For purposes of this apportionment, gross income is determined under the law of the foreign country or a possession of the United States to which the foreign income taxes have been paid or accrued. The net amount of income in a separate category and the total net income are to be next determined by deducting any credits, expenses, losses, and any other deductions that are properly allocable to the gross amount of such income under the laws of that foreign country or possession. If foreign law does not provide for the direct allocation of expenses, losses, or other deductions to a particular category of income, then the principles of § 1.861-8 shall apply in allocating such expenses, losses, or other deductions to gross income as determined under foreign law. For example, the principles of § 1.861-8 apply to require definitely related expenses to be directly allocated to particular categories of gross income and provide the methods of apportioning expenses that are definitely related to more than one category of gross income or that are not definitely related to any particular category of gross income. For

purposes of this paragraph, the gross income method of allocating expenses that are not definitely related is acceptable even if the expense to be apportioned is interest expense. Also for this purpose, the apportionment of expenses required to be made under § 1.861-8 need not be made on other than a separate company basis. The rules in this paragraph apply only for purposes of the apportionment of taxes among separate categories of income and do not affect the computation of a taxpayer's foreign tax credit limitation with respect to a specific category of income.

(2) *Treatment of certain dividends from noncontrolled section 902 corporations.* If a taxpayer receives or accrues a dividend from a noncontrolled section 902 corporation, and if the Commissioner establishes that there is an agreement, express or implied, that such dividend is paid out of a designated pool of earnings of the foreign corporation, then only the foreign taxes imposed on that pool of earnings will be considered to be taxes related to the dividend.

(b) *Application of paragraph (a) to sections 902 and 960—(1) Determination of deemed paid credit.* If, for the taxable year, there is included in the gross income of a domestic corporation under section 951 an amount attributable to the earnings and profits of a controlled foreign corporation for any taxable year and the amount included consists of income in more than one separate category of the controlled foreign corporation, then the domestic corporation shall be deemed to have paid only a portion of the taxes paid or accrued, or deemed paid or accrued, by the controlled foreign corporation that are allocated to each separate category to which the inclusion is attributable. The portion of the taxes allocated to a particular separate category that shall be deemed paid by the United States shareholder shall be equal to the taxes allocated to that separate category multiplied by the amount of the inclusion with respect to that category (as determined under § 1.904-7(c)(1)) and divided by the earnings and profits of the controlled foreign corporation with respect to that separate category (as determined under § 1.904-7(c)(2)(ii)). The rules of this paragraph (b)(1) also apply for purposes of computing the foreign tax credit of United States shareholders of controlled foreign corporations under section 902.

(2) *Taxes on income excluded from Subpart F under section 954(b)(4).* Whether an item of income is high-taxed for purposes of section 954(b)(4) shall be

determined after the allocation of taxes under paragraph (a) of this section. If a controlled foreign corporation receives or accrues income in a separate category that is excluded from the corporation's Subpart F income under section 954(b)(4) and also receives or accrues income in that category that is included in a United States shareholder's gross income under section 951(a)(1), then any foreign income taxes that are allocable to the items of income in that category that are excluded from the corporation's Subpart F income under section 954(b)(4) shall be considered to be related only to the non-Subpart F income in that category. The taxes that are related to the income that is excluded from Subpart F under section 954(b)(4) shall be deemed paid only when the related earnings and profits are distributed to the United States shareholder or otherwise included in the United States shareholder's gross income.

(3) *Distributions received from foreign corporations that are excluded from gross income under section 959(b).* The principles of this paragraph shall be applied to—

(i) Any portion of a distribution received from a first-tier corporation by a domestic corporation that is excluded from the domestic corporation's gross income under section 959(a) and § 1.959-1, and

(ii) Any portion of a distribution received from an immediately lower-tier corporation by a second- or first-tier corporation that is excluded from such foreign corporation's gross income under section 959(b) and § 1.959-2, if such distribution is treated as a dividend pursuant to § 1.960-2(a).

(4) *Application of section 78.* For purposes of treating taxes deemed paid by a taxpayer under section 902(a) and section 960(a)(1) as a dividend under section 78, taxes that were allocated to income in a separate category shall be treated as income in that same separate category.

(5) *Increase in limitation.* The amount of the increase in the foreign tax credit limitation allowed by section 960(b) and § 1.960-4 shall be determined with regard to the applicable category of income under section 904(d).

(c) *Examples.* The following examples illustrate the application of this section.

Example (1). M, a domestic corporation, conducts business in foreign country X. M earns \$400 of shipping income, \$200 of general limitation income and \$200 of passive income as determined under foreign law. Under foreign law, none of M's expenses are directly allocable to a particular category of income. Under the principles of § 1.861-8, M allocates \$75 of definitely related expenses to

shipping income, \$10 of expenses to general limitation income, and no expenses to passive income. M also allocates non-definitely related expenses of \$40 to shipping income, \$20 to general limitation income, and \$20 to passive income. Therefore, for purposes of paragraph (a) of this section, M has \$285 of net shipping income, \$170 of net general limitation income, and \$180 of net passive income. Country X imposes tax of \$100 on a base that includes M's shipping income and general limitation income. Country X exempts passive income from tax. The tax paid M is related to M's shipping and general limitation income. The \$100 tax is apportioned between those limitations. Thus, M is considered to have paid \$63 of X tax on its shipping income ($\$100 \times \$285/\$455$) and \$37 of tax on its general limitation income ($\$100 \times \$170/\$455$). None of the X tax is allocated to M's passive income.

Example (2). The facts are the same as in example (1) except that X does not exempt all passive income from tax but only exempts interest income. M's passive income consists of \$100 of gross dividend income, to which \$10 of non-definitely related expenses are allocated, and \$100 of interest income, to which \$10 of non-definitely related expenses are allocated. The \$90 of net dividend income is subject to X tax, and \$90 of net interest income is exempt from X tax. M pays \$130 of tax to X. The \$130 of tax is related to M's general, shipping, and passive income. The tax is apportioned among those limitations as follows: \$68 to shipping income ($\$130 \times \$285/\545) \$41 to general limitation income ($\$130 \times \$170/\$545$), and \$21 to passive income ($\$130 \times \$90/\$545$).

Example (3). P, a domestic corporation, owns 100 percent of S, a controlled foreign corporation organized in country X. S owns 100 percent of T, a controlled foreign corporation that is also organized in country X. Country X grants group relief to S and T. In 1987, S earns \$100 of income and T incurs an \$80 loss. Under country X's group relief provisions, only \$20 of S's income is subject to country X tax. Country X imposes a 30 percent tax on this income (\$6). P includes \$100 of S's income in gross income under section 951. Six dollars (\$6) of foreign tax is related to that income for purposes of section 960.

Example (4). P, a domestic corporation, owns all the stock of S, a foreign corporation organized in country F. S is a shipping company that operates in foreign countries X, Y, and Z. Under both foreign and United States law, S earns a total of \$500. The income is foreign base company shipping income. The foreign base company shipping income is subject to varying rates of foreign tax. S pays \$80 of tax to X on \$200 of income, \$40 of tax to Y on \$200 of income and no tax on \$100 of income earned in Z. P excludes the \$200 derived in X from foreign base company shipping income under section 954(b)(4). Under paragraph (b)(3) of this section, the \$80 of taxes that are related to that income are not deemed paid under section 960 with respect to the \$300 included in P's income under section 951(a)(1). Thus, only the taxes related to that income (\$40) would be creditable. The \$80 of taxes related to the

income excluded under section 954(b)(4) are not deemed paid by P until the income to which those taxes are related is included in P's income.

Example (5). Domestic corporation P owns all of the stock of controlled foreign corporation S, which owns all of the stock of controlled foreign corporation T. All such corporations use the calendar year as the taxable year. Assume that earnings and profits are equal to net income and that the income amounts are identical under United States and foreign law principles. In 1987, T earns \$187.50 of gross passive income and \$62.50 of gross general limitation income and pays \$50 of foreign taxes. Assume that T incurs no other expenses. S earns no income in 1987 and pays no foreign taxes. For 1987, P is required under section 951 to include in gross income \$175 attributable to the earnings and profits of T for such year. One hundred and fifty dollars (\$150) of the Subpart F inclusion is attributable to passive income earned by T, and \$25 of the Subpart F inclusion is attributable to general limitation income earned by T. In 1988, T earns no income and pays no foreign taxes. T pays a \$200 dividend to S, consisting of \$175 from its earnings and profits attributable to amounts required to be included in P's gross income with respect to T and \$25 from its other earnings and profits. Assume that no withholding taxes imposed with respect to the distribution from T to S. In 1988, S earns \$100 of gross general limitation income and receives a \$200 dividend from T. S pays \$30 of foreign taxes. Assume that S incurs no other expenses. For 1988, P is required under section 951 to include in gross income \$22.50 attributable to the earnings and profits of S for such year. The entire Subpart F inclusion is attributable to general limitation income earned by S. In 1988, S pays P a dividend of \$247.50, consisting of \$157.50 from its earnings and profits attributable to the amount required under section 951 to be included in P's gross income with respect to T, \$22.50 from its earnings and profits attributable to the amount required under section 951 to be included in P's gross income with respect to S, and \$67.50 from its other earnings and profits. The foreign income taxes deemed paid by P for 1987 and 1988 under section 960(a)(1) and section 902(a) are determined as follows upon the basis of the following facts and computations.

T Corporation (Second-Tier Corporation)

1. Pre-tax earnings and profits

- (a) Passive income (p.i.): 187.50
Plus:
- (b) General limitation income (g.l.i.): 62.50
- (c) Total: 250
Less:
- (d) Foreign income taxes paid on or with respect to T's earnings and profits (20%): 50
- (e) Earnings and profits: 200

2. Allocation of taxes

- (a) Foreign income taxes paid by T that are allocable to p.i. earned by T:
Line 1(d) taxes: 50
Multiplied by: foreign law net p.i.: 187.50
Divided by: foreign law total net income: 250

Result: 37.50

- (b) Foreign income taxes paid by T that are allocable to g.l.i. earned by T:

Line 1(d) taxes: 50
Multiplied by: foreign law net g.l.i.: 62.50
Divided by: foreign law total net income: 250
Result: 12.50

3. T's earnings and profits

- (a) Earnings and profits attributable to T's p.i.:
Line 1(a) e & p: 187.50
Less: line 2(a) taxes: 37.50
Result: 150

- (b) Earnings and profits attributable to T's g.l.i.:
Line 1(b) e & p: 62.50
Less: line 2(b) taxes: 12.50
Result: 50

4. Subpart F inclusion attributable to T:

- (a) Amount required to be included in P's gross income for 1987 under section 951 with respect to T that is attributable to T's p.i.: 150

- (b) Amount required to be included in P's gross income for 1987 under section 951 with respect to T that is attributable to T's g.l.i.: 25

5. Foreign income taxes deemed paid by P under section 960(a)(1) with respect to T

- (a) Taxes deemed paid that are attributable to T's Subpart F inclusion that are attributable to T's p.i.:
Line 2(a) taxes: 37.50
Multiplied by: line 4(a) section 951 incl.: 150
Divided by: line 3 (a) e & p: 150
Result: 37.50

- (b) Taxes deemed paid that are attributable to T's Subpart F inclusion that are attributable to T's g.l.i.:
Line 2(b) taxes: 12.50
Multiplied by: line 4(b) section 951 incl.: 25
Divided by: line 3 (b) e & p: 50
Result: 6.26

6. Dividends paid to S

- (a) Dividends attributable to T's previously taxed p.i.: 150
Plus:
- (b) Dividends attributable to T's previously taxed g.l.i.: 25
Plus:
- (c) Dividends from T's non-previously taxed earnings and profits attributable to p.i.: 0
Plus:
- (d) Dividends from T's non-previously taxed earnings and profits attributable to g.l.i.: 25
- (e) Total dividends paid to S: 200

7. Taxes deemed paid by S

- (a) Taxes of T deemed paid by S for 1987 under section 902(b)(1) with regard to T's p.i.:
Line 2(a) taxes: 37.50
Multiplied by: line 8(c) dividend: 0
Divided by: line 3(a) e & P: 150
Result: 0
- (b) Taxes of T deemed paid by S for 1987 under section 902(b)(1) with regard to T's g.l.i.:
Line 2(b) taxes: 12.50
Multiplied by: line 8(d) dividend: 25
Divided by: line 3(b) e & p: 50
Result: 6.25

S Corporation (First-Tier Corporation)

8. Pre-tax earnings and profits:

- (a) Dividends from T attributable to T's non-previously taxed p.i.: 0
Plus:
- (b) Dividends from T attributable to T's non-previously taxed g.l.i.: 25
Plus:
- (c) Dividends from T attributable to T's previously taxed p.i.: 150
Plus:
- (d) Dividends from T attributable to T's previously taxed g.l.i.: 25
Plus:
- (e) Passive income other than dividend from T: 0
Plus:
- (f) General limitation income other than dividend from T: 100
- (g) Total pre-tax earnings and profits: 300
- (h) Foreign income taxes paid on or with respect to S's earnings and profits (10%): 30
- (i) Earnings and profits: 270

9. Allocation of Taxes

- (a) Foreign income taxes paid by S that are allocable to non-previously taxed p.i. earned by S:
Line 8(h) taxes: 30
Multiplied by: foreign law line 8(a) & 8(e) p.i. amounts: 0
Divided by: foreign law total net income: 300
Result: 0
 - (b) Foreign income taxes paid by S that are allocable to S's previously taxed p.i. received from T:
Line 8(h) taxes: 30
Multiplied by: foreign law line 8(c) p.i. amount: 150
Divided by: foreign law total net income: 300
Result: 15
 - (c) Foreign income taxes paid by S that are allocable to non-previously taxed g.l.i. earned by S:
Line 8(h) taxes: 30
Multiplied by: foreign law line 8(b) & line 8(f) g.l.i. amounts: 125
Divided by: foreign law total net income: 300
Result: 12.50
 - (d) Foreign income taxes paid by S that are allocable to S's previously taxed g.l.i. received from T:
Line 8(h) taxes: 30
Multiplied by: foreign law line 8(d) amount: 25
Divided by: foreign law total net income: 300
Result: 2.50
10. (a) Non-previously Taxed Earnings and Profits of S
Lines 8(a), 8(b), 8(e), & 8(f) e & p: 125
Less: lines 9(a) & 9(c) taxes: 12.50
Result: 112.50
- (b) Portion of result in 10(a) attributable to S's p.i.: 0
 - (c) Portion of result in 10(a) attributable to S's g.l.i.: 112.50
11. (a) Previously Taxed Earnings and Profits of S:
Lines 8(c) and 8(d) e & p: 175
Less: lines 9(b) & 9(d) taxes: 17.50

- Result: 157.50
- (b) Portion of result of 11(a) attributable to T's p.i.:
- Line 8(c): 150
Less: line 9(b) taxes: 15
Result: 135
- (c) Portion of result in 11(a) attributable to T's g.l.i.:
- Line 8(d): 25
Less: line 9(d) taxes: 2.50
Result: 22.50
12. Subpart F Inclusion Attributable to S:
- (a) Amount required to be included in P's gross income for 1988 under section 951 with respect to S that is attributable to S's p.i.: 0
- (b) Amount required to be included in P's gross income for 1988 under section 951 with respect to S that is attributable to S's g.l.i.: 22.50
13. Foreign Income Taxes Deemed paid by P Under Section 960(a)(1) With Respect to S:
- (a) Taxes deemed paid that are attributable to S's Subpart F inclusion that are attributable to S's p.i.:
- Line 9(a) taxes: 0
Multiplied by: line 12(a) sec. 951 incl: 0
Divided by: line 10(b) e & p: 0
Result: 0
- (b) Taxes deemed paid that are attributable to S's Subpart F inclusion that are attributable to S's g.l.i.:
- Line 9(c) taxes: 12.50
Multiplied by: line 12(b) 951 incl: 22.50
Divided by: line 10(c) e & p: 112.50
Result: 2.50
- (c) Foreign income taxes deemed paid by S deemed paid by P that are allocable to S's p.i.:
- Line 7(a) taxes deemed paid by S: 0
Multiplied by: line 12(a) section 951 incl 0
Divided by: line 10(b) e & p: 0
Result: 0
- (d) Foreign income taxes deemed paid by S deemed paid by P that are allocable to S's g.l.i.:
- Line 7(b) taxes deemed paid by S: 6.25
Multiplied by: line 12(b) section 951 incl: 22.50
Divided by: line 10(c) e & p: 112.50
Result: 1.25
14. Dividends paid to P
- (a) Dividends from S attributable to S's previously taxed p.i.: 0
Plus:
- (b) Dividends from S attributable to S's previously taxed g.l.i.: 22.50
Plus:
- (c) Dividends to which section 902(a) applies:
- (i) Consisting of S's earnings and profits attributable to T's previously taxed p.i.: 135
Plus:
- (ii) Consisting of S's earnings and profits attributable to T's previously taxed g.l.i.: 22.50
Plus:
- (iii) Consisting of S's other p.i. earnings and profits: 0
Plus:
- (iv) Consisting of S's other g.l.i. earnings and profits: 67.50
- (v) Total section 902 dividend: 225
- (d) Total dividends paid to P: 247.50

15. Foreign Income Taxes Deemed Paid by P under section 902 and section 960(a)(3) with respect to S:

- (a) Taxes paid by S deemed paid by P under section 902(a) with regard to S's p.i.:
- Line 9(a) taxes: 0
Multiplied by: line 14(c)(iii) div.: 0
Divided by: line 10(b) e & p: 0
Result: 0
- (b) Taxes paid by S deemed paid by P under section 902(a) with regard to S's g.l.i.:
- Line 9(c) taxes: 12.50
Multiplied by: line 14(c)(iv) div.: 67.50
Divided by: line 10(c) e & p: 112.50
Result: 7.50
- (c) Taxes deemed paid by S deemed paid by P under section 902(a) with regard to S's p.i.:
- Line 7(a) deemed paid taxes: 0
Multiplied by: line 14(c)(iii) div.: 0
Divided by: line 10(b) e & p: 0
Result: 0
- (d) Taxes deemed paid by S deemed paid by P under section 902(a) with regard to S's g.l.i.:
- Line 7(b) deemed paid taxes: 6.25
Multiplied by: line 14(c)(iv) div.: 67.50
Divided by: line 10(c) e & p: 112.50
Result: 3.75
- (e) Foreign income taxes paid by S under section 960(a)(3) deemed paid by P with regard to S's previously taxed p.i.:
- Line 9(b) taxes: 15
Multiplied by: line 14(c)(i) div.: 135
Divided by: line 11(b) e & p: 135
Result: 15
- (f) Foreign income taxes paid by S under section 960(a)(3) deemed paid by P with regard to S's previously taxed g.l.i.:
- Line 9(d) taxes: 2.50
Multiplied by: line 14(c)(ii) div.: 22.50
Divided by: line 11(c) e & p: 22.50
Result: 2.50

Summary

Total taxes deemed paid by P under section 960(a)(1) with respect to—
Passive income of S and T included under section 951 in income of P:

Line 5(a): 37.50

Plus:

Line 13(a): 0

Plus:

Line 13(c): 0

Result: 37.50

General limitation income of S and T included under section 951 in income of P:

Line 5(b): 6.25

Plus:

Line 13(b): 2.50

Plus:

Line 13(d): 1.25

Result: 10

Total deemed paid taxes under section 960(a)(1): 47.50

Total taxes deemed paid by P under section 902 and section 960(a)(3) attributable to passive income of S and T (line 15(e)): 15

Total taxes deemed paid by P under section 902 and section 960(a)(3) attributable to general limitation income of S and T:

Line 15(b): 7.50

Plus:

Line 15(d): 3.75

Plus:

Line 15(f): 2.50

Result: 13.75

§ 1.904-9 Transition rules.

(a) *Characterization of distributions and section 951(a)(1)(B) inclusions of earnings of a foreign corporation accumulated in taxable years beginning before January 1, 1987 during taxable years of both the payor foreign corporation and the recipient which begin after December 31, 1986—(1) In general.* Income derived by a foreign corporation in taxable years beginning before January 1, 1987, is characterized in the foreign corporation's hands under section 904(d)(1)(A) (separate limitation interest income), or section 904(d)(1)(E) (general limitation income) (prior to their amendment by the Tax Reform Act of 1986 (the Act)) after application of the de minimis rule of former section 904(d)(3)(C) (prior to its amendment by the Act). When, in a taxable year after the effective date of the Act, earnings and profits attributable to such income are distributed, or included in the gross income of a United States shareholder under section 951(a)(1)(B), the ordering rules of section 904(d)(3)(D) and § 1.904-7(c)(4), shall be applied in determining initially the character of the income of the distributee or United States shareholder. Thus, a proportionate amount of a distribution described in this paragraph will be initially characterized as separate limitation interest income in the hands of the distributee based on the ratio of the separate limitation interest earnings and profits out of which the dividend was paid to the total earnings and profits out of which the dividend was paid. The distribution or section 951(a)(1)(B) inclusion must then be recharacterized in the hands of the distributee or United States shareholder on the basis of the following principles:

(i) Distributions and section 951(a)(1)(B) inclusions that are initially characterized as separate limitation interest income shall be treated as passive income;

(ii) Distributions and section 951(a)(1)(B) inclusions that are initially characterized as old general limitation income shall be treated as general limitation income, unless the taxpayer establishes to the satisfaction of the Commissioner that the distribution or section 951(a)(1)(B) inclusion is attributable to:

(A) Earnings and profits accumulated with respect to shipping income, as defined in section 904(d)(2)(D) and § 1.904-6(f), or

(B) In the case of a financial services entity, earnings and profits accumulated with respect to financial services

income, as defined in section 904(d)(2)(C)(ii) and § 1.904-6(e)(1).

(2) *Limitation on establishing the character of earnings and profits.* In order for a taxpayer to establish that distributions or section 951(a)(1)(B) inclusions that are attributable to general limitation earnings and profits of a particular taxable year beginning before January 1, 1987, are attributable to shipping or financial services earnings and profits, the taxpayer must establish the amounts of foreign taxes paid or accrued with respect to income attributable to those earnings and profits that are to be treated as taxes paid or accrued with respect to shipping or financial services income, as the case may be, under section 904(d)(2)(I). Conversely, in order for a taxpayer to establish the amounts of general limitation taxes paid or accrued in a taxable year beginning before January 1, 1987, that are to be treated as taxes paid or accrued with respect to shipping or financial services income, as the case may be, the taxpayer must establish the amount of any distribution or section 951(a)(1)(B) inclusions that are attributable to shipping or financial services earnings and profits. For purposes of establishing the amounts of general limitation taxes that are to be treated as taxes paid or accrued with respect to shipping or financial services income, the principles of § 1.904-8 shall be applied.

(b) *Application of look-through rules to distributions (including deemed distributions) and payments by an entity to a recipient when one's taxable year begins before January 1, 1987 and the other's taxable year begins after December 31, 1986—(1) In general.* This paragraph provides rules relating to the application of section 904(d)(3) to payments made by a controlled foreign corporation or other entity to which the look-through rules apply during its taxable year beginning after December 31, 1986, but received in a taxable year of the recipient beginning before January 1, 1987. The paragraph also provides rules relating to distributions (including deemed distributions) or payments made by a controlled foreign corporation to which section 904(d)(3) (as in effect before the Act) applies during its taxable year beginning before January 1, 1987, and received in a taxable year of the recipient beginning after December 31, 1986.

(2) *Payor of interest, rents, or royalties is subject to the Act and recipient is not subject to the Act.* If interest, rents, or royalties are paid or accrued on or after the start of the payor's first taxable year beginning on

or after January 1, 1987, but prior to the start of the recipient's first taxable year beginning on or after January 1, 1987, such interest, rents, or royalties shall initially be characterized in accordance with section 904(d)(3) and § 1.904-7. To the extent that interest payments in the hands of the recipient are initially characterized as passive income under these rules, they will be treated as separate limitation interest in the hands of the recipient. To the extent that rents or royalties in the hands of the recipient are initially characterized as passive income under these rules, they will be recharacterized as general limitation income in the hands of the recipient.

(3) *Recipient of interest, rents, or royalties is subject to the Act and payor is not subject to the Act.* If interest, rents, or royalties are paid or accrued before the start of the payor's first taxable year beginning on or after January 1, 1987, but on or after the start of the recipient's first taxable year beginning after January 1, 1987, the income in the recipients' hands shall be initially characterized in accordance with former section 904(d)(3) (prior to its amendment by the Act). To the extent interest income is characterized as separate limitation interest income under these rules, that income shall be recharacterized as passive income in the hands of the recipient. Rents or royalties will be characterized as general limitation income.

(4) *Recipient of dividends and Subpart F inclusions is subject to the Act and payor is not subject to the Act.* If dividends are paid or accrued or section 951(a)(1) inclusions occur before the start of the first taxable year of a controlled foreign corporation beginning on or after January 1, 1987, but on or after the start of the first taxable year of the distributee or United States shareholder beginning on or after January 1, 1987, the dividends or section 951(a)(1) inclusions in the hands of the distributee or United States shareholder shall be initially characterized in accordance with former section 904(d)(3) (including the ordering rules of section 904(d)(3)(A)). Therefore, under former section 904(d)(3)(A), dividends are considered to be paid or derived first from earnings attributable to separate limitation interest income. To the extent the dividend or section 951(a)(1) inclusion is initially characterized under these rules as separate limitation interest income in the hands of the distributee or United States shareholder, the dividend or section 951(a)(1) inclusion shall be recharacterized as passive income in the hands of the distributee or United States shareholder.

The portion, if any, of the dividend or section 951(a)(1) inclusion that is not characterized as passive income shall be characterized according to the rules in paragraph (a) of this section. Therefore, a taxpayer may establish that income that would otherwise be characterized as general limitation income is shipping or financial services income. Rules comparable to the rules contained in section 904(d)(2)(I) shall be applied for purposes of characterizing foreign taxes deemed paid with respect to distributions and section 951(a)(1) inclusions covered by this paragraph (b)(4).

(5) *Examples.* The following examples illustrate the application of this paragraph.

Example (1). P is a domestic corporation that is a fiscal year taxpayer (July 1-June 30). S, a controlled foreign corporation, is a wholly-owned subsidiary of P and has a calendar taxable year. On June 1, 1987, S makes a \$100 interest payment to P. Because the payment is made after January 1, 1987 (the first day of S's first taxable year beginning after December 31, 1986), the look-through rules of section 904(d)(3) apply to characterize the payment made by S. To the extent, however, that the interest payment to P is allocable to passive income earned by S, the payment will be included in P's separate limitation for interest as provided in former section 904(d)(1)(A).

Example (2). P is a domestic corporation that is a calendar year taxpayer. S, a controlled foreign corporation, is a wholly-owned subsidiary of P and has a July 1-June 30 taxable year. On June 1, 1987, S makes a \$100 interest payment to P. Because the payment is made prior to July 1, 1987 (the first day of S's first taxable year beginning after December 31, 1986), the look-through rules of section 904(d)(3) do not apply. Assume that, under former section 904(d)(3), the interest payment would be characterized as separate limitation interest income. For purposes of determining P's foreign tax credit limitation, the interest payment will be passive income as provided in section 904(d)(1)(A).

Example (3). The facts are the same as in example (2) except that on June 1, 1987, S makes a \$100 dividend distribution to P. Because the dividend is paid prior to July 1, 1987 (the first day of S's first taxable year beginning after December 31, 1986), the look-through rules of section 904(d)(3) do not apply. Assume that, under former section 904(d)(3), S's earnings and profits for the taxable year ending June 30, 1987 consist of \$200 of earnings attributable to general limitation income and \$75 of earnings attributable to separate limitation interest income. The portion of the dividend that is attributable to S's separate limitation interest and is treated as separate limitation interest income under former section 904(d)(3) is \$75. The remaining \$25 of the dividend is treated as general limitation income under former section 904(d)(3). For purposes of determining P's foreign tax credit limitation, \$75 of the dividend will be recharacterized as passive

income. The remaining \$25 of the dividend will be characterized as general limitation income, unless P can establish that the general limitation portion is attributable to shipping or financial services income.

(c) *Installment sales.* If income is received or accrued by any person on or after the effective date of the Act (as applied to such person) that is attributable to a disposition of property by such person with regard to which section 453 or section 453(A) applies (installment sale treatment), and the disposition occurred prior to the effective date of the Act, that income

shall be characterized according to the rules of §§ 1.904-6 through 1.904-9.

(d) *Special effective date for high withholding tax interest earned by persons with respect to qualified loans described in section 1201(e)(2) of the Act.* For purposes of characterizing interest received or accrued by any person, the definition of high withholding tax interest in § 1.904-6(d) shall apply to taxable years beginning after December 31, 1986 except as provided in section 1201(e)(2) of the Act.

(e) *Treatment of certain recapture income.* Except as otherwise provided, if

income is subject to recapture under section 585(c), the income shall be general limitation income. If the income is recaptured by a taxpayer that is a financial services entity, the entity may treat the income as financial services income if the taxpayer establishes to the satisfaction of the Secretary that the deduction to which the recapture amount is attributable is allocable to financial services income.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 87-19436 Filed 8-20-87; 3:51 pm]

BILLING CODE 4830-01-M

Faint, illegible text covering the page, likely bleed-through from the reverse side.

federal register

Wednesday
August 26, 1987

Part III

Department of Transportation

Federal Aviation Administration

**14 CFR Parts 1, 91, 121, 125, 129, and
135**

**Traffic Alert and Collision Avoidance
System; Notice of Proposed Rulemaking**

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

14 CFR Parts 1, 91, 121, 125, 129, and 135

[Docket No. 25355; NPRM No. 87-8]

Traffic Alert and Collision Avoidance System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to require the installation and use of a Traffic Alert and Collision Avoidance Systems (TCAS) in large transport type airplanes and certain turbine powered smaller airplanes. TCAS, which utilizes the signal from existing transponders, would provide for a collision avoidance capability in the cockpit independent of the ground Air Traffic Control (ATC) system, or where there is no ATC coverage. Additionally, the notice proposes that all operators of TCAS-equipped airplanes have an FAA-approved TCAS training program for flight crewmembers.

DATE: Comments must be received on or before December 24, 1987.

ADDRESSES: Comments on this notice may be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-204), Docket No. 25355, 800 Independence Avenue, SW., Washington, DC 20591. All comments must be marked Docket No. 25355. Comments may be examined in Room 915 between 8:30 a.m. and 5:00 p.m. on weekdays, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Frank Rock, Aircraft Engineering Division, FAA, 800 Independence Avenue, SW., Washington, DC 20591; Telephone (202) 267-9567.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and submit their comments in triplicate to the address specified above. All comments received on or before the

closing date for comments specified above will be considered by the Administrator before taking action on this proposed rulemaking. In addition, late comments may be accepted as long as they do not negatively impact on the timing of final action on this notice. The proposals contained in this notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each 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 submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25355." The postcard will be date stamped and mailed to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn.: Public Inquiry Center (APA-230), 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484.

Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Working through the Air Transport Association, the airline industry began the search for a workable collision avoidance system in 1955. The airlines believed they needed a collision avoidance system as a backup to the FAA's ground-based air traffic control system (ATCS), and to ensure aircraft separation in airspace where surveillance coverage is not provided. Collision avoidance systems with those safety objectives in mind have been under development in the United States since 1955. Beginning in the mid-1970's, research has centered upon the use of signals from the Air Traffic Control Radar Beacon System (ATCRBS) airborne transponder as the cooperative element of collision avoidance systems. Current efforts, summarized in References 1 through 10 at the end of this preamble, have involved all relevant areas of investigation, including—

1. Surveillance techniques;
2. Collision avoidance algorithms;
3. Analysis of air traffic control (ATC) consequences;
4. Analysis of electromagnetic compatibility; and
5. Operational evaluations.

The above developments have progressed to the point that an existing system is now of sufficient technical maturity and operational effectiveness that requiring the use of a traffic alert and collision avoidance system (TCAS) in certain airplanes is considered appropriate.

System Description

The primary responsibility for avoiding an aircraft collision rests with the pilot, with the aid of the ATC system. The TCAS provides a backup to the pilot and the ATC system by alerting flightcrews to aircraft that may represent collision hazards, and, in the case of the TCAS II and III, provides the crew with the necessary maneuver to avoid the hazard. The equipment for TCAS is contained entirely onboard the equipped airplane and is not dependent on any ground-based systems. When discussed within this notice, the term "TCAS," if not followed by a numerical identifier, is generic and refers to any TCAS system.

The ATCRBS is a radar system in which the aircraft to be detected is equipped with a radio receiver/transmitter called a transponder. Radar pulses transmitted from the ground are received by the transponder and used to trigger a distinctive transmission from the transponder. The controller's radar receives this transmission and displays a distinct and amplified return on the radar scope. The Mode S transponder is an advanced version of the existing ATCRBS transponder. The Mode S transponder is completely interoperative and compatible with the current ATCRBS system. Mode S uses a discrete set of radio pulses (code) for each individual aircraft, and is not limited to the maximum 4,096 possible codes of the ATCRBS transponder. Mode S also adds the capability to provide a data link between the aircraft and the ground. Some transponders are equipped with a Mode C capability. Mode C is that function of a transponder that responds to specific ground interrogations by transmitting the aircraft's current altitude in 100-foot increments. This information is received by ground equipment and displayed on the controller's scope in the data block for the transmitting aircraft. Mode C may be used with both ATCRBS and Mode S transponders.

The TCAS equipment two classes of advisories. Traffic advisories are issued to aid visual acquisition and include the range, range rate, altitude, altitude rate and bearing of the intruding aircraft relative to the TCAS aircraft. Traffic advisories (TA's) without altitude may also be provided from nonaltitude reporting transponder Mode A equipped intruders. Advisories issued to correct a flight path or to prevent a maneuver that could cause insufficient separation are resolution advisories (RA's).

The FAA's approach to TCAS has been, first, to address a family of onboard collision avoidance systems, then to demonstrate the operational and technical feasibility of the concept, and lastly to support the development of national standards for the equipment. The TCAS Program consists of the following three categories of equipment: TCAS I provides only TA's; TCAS II provides TA's and resolution advisories (RA's) in the vertical plane; and TCAS III provides TA's and RA's in both the vertical and horizontal planes.

The TCAS equipment in an airplane interrogates the ATC transponders of other aircraft in its vicinity. By computer analysis of the replies, the TCAS equipment determines which of these aircraft represent potential collision hazards and provides appropriate advisory information to the flightcrew to ensure separation. These aircraft are termed *intruders*.

TCAS equipment transmits periodic interrogation signals. If the nearby aircraft is equipped with a Mode A transponder, range and azimuth information will be provided to the TCAS equipped airplane. If the nearby aircraft is equipped with a Mode C transponder, altitude information will be provided in addition to range and azimuth. Nearly aircraft equipped with a Mode S transponder will reply with signals that provide range, azimuth, and altitude. This data, along with an assumed protected volume of airspace around the airplane, is used to determine if the intruding airplane is a threat. Airplanes equipped with a TCAS II or III system and a Mode S transponder must perform coordinated maneuvers to preclude conflicts that could result if each TCAS-equipped airplane were to resolve the encounter separately. Intruder airplanes so equipped are processed individually to permit selection of the appropriate RA in reliance on the predicted track data and in coordination with other TCAS II- or III-equipped airplanes. Coordination is accomplished through the Mode S transponder data link.

Principal Features of TCAS

Ground Independence

The Mode S transponder air-to-air coordination function provided for in TCAS II or TCAS III is performed by the Mode S data link between the TCAS-equipped airplanes. TCAS thus acts as an independent backup to the air traffic control system when it issues either TA's or RA's.

TCAS is designed so that its transmissions do not interfere with ATCRBS ground-to-air signaling used for ATC surveillance. The power levels and transmission rates TCAS units are automatically adjusted during operation in accordance with the number of other TCAS units operating in the local area. This process is known as *interference limiting*.

The TCAS II and III units use computer algorithms that must ensure that the rate at which alerts occur in normal traffic is acceptable and that the flightcrew response to RA's shall not be disruptive to the normal functioning of the ground-based ATC system. The algorithms in TCAS II and III units distinguish between aircraft that are potential collision threats and those that are not. These algorithms predict the future position of the TCAS-equipped airplane and the future positions of proximate intruder aircraft. Alerts are generated with respect to intruders that are predicted to be collision threats based on their tracked rates. An important optimized concept has been designed into threat detection process. If airplane positions are predicted far into the future, collisions will be anticipated with more than adequate time to accomplish collision escape maneuvers. However, this would result in a large number of potentially unnecessary and nuisance RA's. To reduce the number of alerts, a tradeoff has been made between the collision warning time available and the protection volume provided around the TCAS airplane.

To ensure that the operation of TCAS II or III does not impact the ATC system, the TCAS detection algorithms contain parameters that can be modified to adjust the collision warning times. The process of selecting these parameters is called sensitivity level control and can be accomplished in a number of ways. The sensitivity level may be selected automatically based on the pressure altitude and/or radar altitude of the TCAS airplane or manually by the pilot. The selection of sensitivity level based on the TCAS airplane altitude recognizes that, as an airplane descends into the more dense terminal area traffic, the protection volume level should be reduced to maintain the TCAS

alert rate within acceptable bounds. Conversely, as the aircraft climbs to less dense traffic altitude airspace, and collision warning time, can be increased.

Altitude Data

The TCAS II- or III-equipped airplanes will generate TA's and RA's with respect to other TCAS II or III airplanes and also with respect to intruders equipped either with a Mode C or S transponder. Traffic advisories are displayed against all transponder-equipped intruders, but the altitude of the intruder is not displayed if the intruder is not reporting altitude information. For RA's to be generated, the intruder must be reporting the pressure altitude through its transponder.

Role of Mode S

TCAS II or III units use Mode S interrogation/reception techniques for surveillance of other airplanes equipped with Mode S transponders and for air-to-air coordination between TCAS units. The parity protection of Mode S messages ensures that reply garbling and multipath will not generate false targets and false alerts. In addition, surveillance reliability is improved as a result of the Mode S roll-call interrogation process that reinterrogates intruders when replies are not received during a surveillance update cycle. Two TCAS II- or III-equipped airplanes in conflict coordinate RA's with each other using the Mode S air-to-air data link. This ensures that the RA displayed in each airplane is compatible with the RA's displayed in the other TCAS II- or III-equipped airplane.

TCAS Surveillance In High Density Airspace

Both TCAS II and III use a number of interrogation and reception techniques to provide reliable surveillance in high density airspace. These techniques minimize the effects of multipath and with interfering Mode A or C transponder replies transmitted in response to interrogations from other TCAS II or III units or Mode A or C ground stations, and control the extent to which overlapping replies to the airplane TCAS II or III interrogations. The surveillance features of TCAS ensure a high probability of detecting intruding aircraft in the vicinity. In addition, the likelihood is very low that an RA would be generated as a result of signal interference or surveillance system limitation.

Principles of Operation

TCAS I

Active TCAS I is an air-to-air interrogation device that provides TA's to alert the pilot to the presence of a nearby transponder-equipped aircraft and advising the pilot of the clock direction at which to look for the intruder aircraft. Unlike TCAS II and III, active TCAS I does not provide RA maneuvers.

A significant amount of data is available to demonstrate that if pilots are alerted to the presence of a nearby airplane and the clock direction to look for that airplane, they will locate the intruder more rapidly, even in conditions or poorer visibility, than without such information. Three or four nautical miles is a nominal range at which aircraft can normally be detected in normal visual flight conditions. The flight regime in which most near misses and midair collisions occur is the airspace below 10,000 feet. This airspace will continue to have a mix of controlled and uncontrolled aircraft operating in visual meteorological conditions. Thus, a system that can be installed on an airplane that enhances the pilot's capability of visually locating other aircraft will be useful and will result in safer operation.

It would be best if the system did not require special cooperative equipment to permit the active TCAS I to perform its function in a suitable manner. However, studies to date show that some sort of cooperative device is necessary to permit the intruding aircraft to be detected in an operationally useful manner. The logical cooperative device is the Mode A, C or S transponder. Mode C or S transponders will provide the pilot of the active TCAS I-equipped airplane with a specific altitude for the intruding aircraft, in addition to bearing and distance information.

TCAS II

Collision avoidance algorithms are the computer logic rules that, (1) determine whether or not each of the aircraft currently in track is a potential collision threat (TA), and (2) for a calculated collision threat, determine what maneuver is advisable for separation assurance (RA). Intruder tracking and air-to-air communications for coordination are also in the domain of the collision avoidance algorithms.

The processing cycle.

The TCAS II algorithms operate in a cycle repeated once per second. At the beginning of the cycle, transponder replies are used to update the tracks of all intruders and to initiate new tracks as required. Each intruder is then

represented by a current estimate of its range, range rate, bearing, altitude, and altitude rate if provided by the intruder transponder. The TCAS-equipped airplane altitude and altitude rate estimates are also updated.

After the tracks have been updated, the threat detection algorithms are used to determine which intruders are potential collision threats. These algorithms are used at more than one level. The first level will determine which intruders are sufficiently close to warrant TA's while a second, more urgent, level is used to determine which intruders warrant RA's. When the threat aircraft is also equipped with a TCAS II or III with its Mode S transponder, air-to-air coordination occurs during and after the threat resolution process. Following air-to-air coordination, TA and RA displays are updated.

Threat detection. Collision threat detection is based on predicted or existing simultaneous proximity in both range and altitude. TCAS II uses range, range rate and altitude, and altitude rate data to extrapolate the relative positions of the intruder and TCAS-equipped airplane. If within a short time interval (for example, 20 seconds) the range of the intruder is projected to be "small" and the altitude separation is projected to be "small," the intruder is declared a threat. Alternately, the threat declaration may be based on current range and altitude separations that are "small." The algorithm parameters that establish how far into the future positions are extrapolated and thus establish thresholds for determining when separations are "small" are selected in accordance with the sensitivity level at which the threat detection algorithms are operating.

Each sensitivity level defines a specific set of values for the detection parameters used by the algorithms. These include threshold values for the prediction time, the minimum slant range, and the vertical separation. Through the process of sensitivity level control, these parameters are assigned different values to account for the aircraft separations expected to occur in dense terminal airspace. Sensitivity level may be selected automatically based upon the altitude of the airplane or manually by a pilot-activated switch.

The values used for threat detection parameters cannot be optimum for all situations as TCAS II is limited by its lack of knowledge of intruder intent. The result is that a balance has to be struck between the need to give adequate warning of an impending collision and the possible generation of unnecessary alerts. A feature of TCAS II that helps in this respect is the variability of the

protected volume of airspace. This volume is automatically coupled in size to the relative speed between the two aircraft and is automatically aligned in a direction parallel to the relative velocity vector. Bearing measurement plays no part in this process. Each encounter gives rise to a protected volume tailored to that encounter. In a multi-aircraft situation there is an individual, protected volume for the TCAS II airplane paired with each threat.

Resolution Advisory. If the threat airplane is also equipped with a TCAS II or III unit, the first step in threat resolution is to coordinate with the threat airplane to ensure that both units do not attempt independently to select RA's. If the threat airplane is not equipped with a TCAS II or III unit capable of generating resolution advisories, this step is by-passed. The next step in RA selection is to determine the sense (or direction) of the vertical avoidance maneuver. If the TCAS-equipped intruder airplane has an RA displayed for that conflict, the sense selected is the one that is opposite to the sense of the intruder's RA. The intruder would have communicated this sense by means of a coordination message over the Mode S data link. For unequipped intruders the sense selected is that which will provide the greater vertical separation at the time of closest point of approach (CPA) in range. TCAS II makes this determination by modeling a climb and a descend maneuver of the intruder TCAS II airplane. These maneuvers are modeled at a constant vertical rate (for example, 1,500 feet per minute) following delays for pilot response and vertical acceleration from the current intruder TCAS II vertical rate. The sense, climb or descend, that provides the greater separation at CPA is selected. Once a sense is selected, it is not changed for the duration of the encounter. The final step in RA selection is the determination of the strength of the advisory. Advisory strength selection is accomplished by modeling the airplane vertical trajectory to the CPA for each candidate maneuver and predicting the intruder altitude at CPA. The advisory strength is selected in accordance with the following principles:

1. The advisory must provide a specified minimum estimated vertical separation at CPA; and
2. The advisory should require the smallest possible change in the vertical trajectory of your own airplane.

Resolution advisories of different strength may be given during an encounter. For example, if the intruder maneuvers to decrease separation, or if

your own airplane aircraft responds to the original advisory more slowly than expected by the modeling equations, a stronger advisory may be required to achieve the vertical separation desired. Conversely, if either aircraft maneuvers to increase separation, an advisory of weaker magnitude may be sufficient to provide the separation desired.

The Mode S transponder performs the surveillance functions of existing Mode A/Mode C transponders but, in addition, provides air-to-air communications for coordinating the resolution of encounters between TCAS II- or III-equipped airplanes.

TCAS III

TCAS III is a more versatile system, which can provide RA's in the horizontal dimension (turn right or left) in addition to the vertical maneuvers provided by a TCAS II unit. This additional option in the choice of escape maneuvers provides increased additional operational flexibility. It should be noted that all known potential encounters can be safely and adequately resolved by a TCAS II unit providing RA's in the vertical plane.

Another difference between TCAS II and TCAS III is that TCAS III provides bearing measurements with an overall accuracy of approximately 2 degrees (standard deviation), compared to the 10 degrees provided by a TCAS II unit. The TCAS III bearing information is sufficiently accurate to permit the system to 1) provide RA's in the horizontal plane, and 2) reduce the number of RA's, based upon projected horizontal separation at the CPA. It is the intent that this bearing enhancement measurement capability, while developed for TCAS III, may be provided as an upgrade for a TCAS II unit.

The TCAS III surveillance system develops accurate estimates of the positions and velocities of nearby aircraft through a sophisticated combination of hardware and software. Precise bearing measurements are obtained through the use of a phased array antenna and an accurate monopulse processing system. To effectively use the bearing information, particularly during turns, accurate attitude data is taken from the airplane's attitude reference or navigation system. This is combined with the surveillance data, by means of a coordinate conversion process, to track all aircraft in a cartesian coordinate system. For efficiency, and also to control interference levels, the system uses adaptive steering of the antenna beam to concentrate the most interrogations

on those aircraft that are most likely to be of concern.

Primarily because of the addition of horizontal RA capability, the Collision Avoidance System logic for TCAS III is more intricate in some areas than that of TCAS II. One example of this is the modeling of escape maneuvers. In TCAS III, the computer "models" all permissible escape maneuvers and uses the predicted outcomes as a criterion for selecting the best escape maneuver. To properly predict the performance of escape maneuvers for TCAS III, the logic must model the projected flight path of each maneuver in three dimensions and essentially linear flight paths. Second, the TCAS III logic is more intricate than the TCAS II logic in the advisory selection function. This complexity is necessary to take full advantage of the flexibility provided by having two resolution planes. For TCAS III, the selection of an RA is based not only upon projected separation but upon a number of other criteria as well. These include confidence in the projection for each resolution plane, the desirability of each maneuver from an operational standpoint, deviation from the intended flight path, and efficient use of resolution dimensions.

The detection, coordination, and display portions of the TCAS III logic are based primarily upon the TCAS II design. The threat detection logic does, however, use some new techniques for reducing the number of unnecessary alarms. These include horizontal miss-distance filtering and a "variable threshold" criterion for declaring new threats. Although the air-to-air coordination formats and protocols are the same for both TCAS II and TCAS III, the TCAS III system must be able to coordinate RAs in the horizontal dimension as well as the vertical. Since TCAS II cannot coordinate horizontal maneuvers, the TCAS III logic will attempt to choose a vertical RA for a TCAS II/III conflict if it is reasonable to do so.

Operational Evaluation

Piedmont Phase I

As part of the system validation, TCAS "prototype" units were installed on two Piedmont Airlines B-727 aircraft and were flown on regularly scheduled passenger flights over a 5-month period from November 1981 to March 1982 for a total of 928 flight hours. For this Piedmont Phase I evaluation, the TCAS displays were located outside the view of the flight crew and were seen only by trained observers.

The purpose of that evaluation was to examine the operational aspects of

integrating TCAS into the cockpit of a commercial air carrier. Specific areas of interest included the following:

1. The potential interaction of TCAS with the current ATC system.
2. The frequency of alerts and their effect on the flight-crew.
3. The circumstances surrounding individual alerts.
4. The potential for visual acquisition of intruders using TCAS displays.

The results of the evaluation indicated that TCAS II can provide a high degree of backup protection against collisions and the alert rate is acceptable to both pilots and the ATC system (Reference 9).

Piedmont Phase II

The objective of this program is to observe and record system performance and flightcrew integration in a real-world environment. A Piedmont B-727 aircraft previously modified in Phase I testing is being used as the test vehicle to achieve this objective. The aircraft was modified with a TCAS II unit and data collection equipment manufactured for the Federal Aviation Administration by Dalmo Victor Operations, Bell Aerospace Textron. The aircraft is being routed and scheduled by Piedmont in a normal manner.

The Piedmont flightcrews involved in the test have received training on TCAS II operations. The flightcrew is responsible for operation of the TCAS II equipment for the Phase II evaluation. The equipment is only used in visual meteorological conditions.

Test data is being collected over an 7-month flight period. It is expected that approximately 33 percent of the scheduled flight time will be in terminal airspace. Traffic densities will vary with geographic location and time of day and typically will represent densities from less than 0.001 to more than 0.04 airplanes per square nautical mile.

The operational flight evaluation is primarily for data collection. It is not a controlled test, rather, the airplane will operate in a routine manner using the normal route structure.

Each time a TCAS advisory occurs, the aircraft recording system will record system data including time, sequence and type of advisory, track files of all tracked aircraft, range, range rate, altitude of own and intruder aircraft, system perceived density, and intruder bearing.

Automatically-recorded data will be correlated with pilot and observe comment forms to determine the operational utility of TCAS, flightcrew reaction, and ATCS interaction.

TCAS-II Limited Installation Program

The objective of the TCAS II Limited Installation Program (LIP) is to permit evaluation of production quality TCAS II by a number of airlines under normal airline operations. In support of this objective, cost-sharing contracts were awarded to the Air Transport Division of Allied Bendix, Ft. Lauderdale, Fla., and Sperry Dalmo Victor (SDV) Inc., Phoenix, Az., to design, fabricate, and evaluate TCAS II units on air carrier aircraft for a period of 6 to 10 months. Bendix will provide five TCAS units to United Airlines; SDV will provide three units to Northwest Airlines and three units to Piedmont Airlines. United Airlines has submitted Supplemental Type Certificate (STC) applications for using TCAS II on their B737 and DC-8-71 fleet of aircraft. SDV has applied for TCAS II STC's for NWA MD-80 and Piedmont's B727-200 fleet of aircraft. The FAA Aircraft Certification Office at Long Beach, Ca., is currently processing each of the STC applications.

Discussion of Proposal

The FAA currently operates a complex network of facilities and subsystems designed to ensure the safe and efficient operation of the National Airspace System (NAS). Operations within the NAS and its many components are governed by an array of Federal Aviation Regulations (FAR) and procedures. Consequently, a wide variety of facilities and services are available. Nevertheless, the primary function of separating aircraft is predicated on the fundamental concepts of ground-based control and the see-and-avoid responsibility of the flightcrew.

Under the see-and-avoid concept, the level of safety is related to the ability of pilots, individually and collectively, to detect and avoid encounters with other aircraft. Although common sense and the FAR require continuous adherence to the principles of see-and-avoid, the concept does have limitations. The pilot's ability to acquire aircraft visually on collision courses is reduced under heavy workload conditions, in areas of high traffic densities, and when the aircraft is in conditions of poor visibility.

The second fundamental concept upon which the separation of aircraft is predicted is ground-based control. Through the issuance of instructions, clearances, and advisories, air traffic controllers ensure that prescribed separation standards are applied between aircraft. Since these instructions are based on known and projected flight information, this system

does not rely totally on the pilot's ability to acquire traffic visually to achieve acceptable levels of safety. In some segments of the NAS, such as terminal control areas, positive control is exercised, and operations in such airspace are conducted under ATC instructions. A terminal radar service area is an example of upgrading of the see-and-avoid concept and represents a complex control environment, since both controlled and uncontrolled aircraft are operating in the area. The overall collision avoidance system design must address the unique problems of such a mixed traffic environment.

The FAA's approach to TCAS is to encourage the development of a family of onboard collision avoidance systems, to demonstrate the operational and technical feasibility of the concept, and to support the development of national/international standards for the equipment. A principal objective of the TCAS approach is to provide a range of collision avoidance equipment alternatives for the full spectrum of airspace users ranging from small airplanes to large transport category airplane. The TCAS Program consists of the following three program elements: TCAS I, which provides only traffic advisories; TCAS II, which provides TA's and RA's in the vertical plane only; and TCAS III, which provides TA's and RA's in both the vertical and the horizontal planes.

The possibility of a domino effect, when a TCAS-equipped airplane reacting to an RA then causes a second aircraft to displace from its assigned flight path, which causes a third aircraft to react, and so on, has been determined by a safety study (Mitre Report MRT-85W28, Reference 5) to be extremely remote. The nature of the Instrument Flight Rule system ensures that aircraft are well separated. Examination of locations in which aircraft are placed in close proximity also demonstrates reasons why domino effects are not expected to occur. In a holding pattern, no set of conditions has been uncovered that would cause more than two aircraft in the pattern to be displaced from their altitudes.

Initially, it is expected that an increase in pilot-controller communications workload is likely because of TCAS II TA's and RA's, as RA's might occur after airplanes have been sequenced for approach on parallel runways. This result is not a function of ATC, but rather of the parallel runway distance separation and the TCAS II coverage.

Operators Subject to the TCAS Requirement

The operations for which TCAS installation would be required are set forth below. As a preliminary matter, however, we want to specifically invite comments on whether the scope of the proposals should be narrowed or expanded. While we believe that we have drawn the correct distinctions between categories of operators, we recognize that others may disagree, and we want to make it clear that our final rule may be broader or narrower than the current specific proposal, depending on the nature of the comments and supporting information that is submitted. For example, there might be some kinds of Part 135 operations (such as those conducted wholly outside congested areas) for which adding TCAS would not at this time significantly affect safety. Similarly, we invite comment on the scope of our proposals with respect to Part 129. Should Part 129 operators be given a different schedule for compliance? If so, why? On the other hand, we also invite comments on whether a TCAS system should also be required on piston-powered operations under Parts 135 and 129.

The proposed rule would provide for the installation of appropriate TCAS units on airplanes used in commercial air carrier, selected air taxi/commuter operations, and on airplanes used by foreign carriers flying in the U.S. airspace. The categories of commercial aircraft for which TCAS I or II would be required have been proposed on the basis of the relative speed of the aircraft, the size of the aircraft, and the number of passengers per aircraft who would benefit from TCAS installation.

Aircraft operating exclusively under Part 91, air traffic and general operating rules, would not be required to have installed any TCAS equipment. However, if an operator or owner elects to install a TCAS unit, the system must be FAA approved and operated according to FAA prescribed procedures. The TCAS system installed must be shown to operate in the ATC system and coordinate with other FAA approved active TCAS systems.

Part 135 commuter and air taxi operators of turbine powered airplanes with 10 to 19 passenger seats would be required to install a TCAS I system to provide TA's from other transponder-equipped aircraft. These advisories should give bearing and distance from the TCAS-equipped airplane in the case where the other aircraft have only a Mode A transponder (no altitude reporting). If the intruder aircraft is

Mode C- or Mode S-equipped, the TCAS I unit should also display altitude, which provides the pilot a sector both in the vertical as well as the horizontal plane to look for the threat aircraft. TCAS I, although not providing an RA, does provide sufficient alerting time for the pilot to visually acquire the threat aircraft and take evasive action if necessary. Although the RTCA minimum operational performance standard (MOPS) has been approved for TCAS I, no system has been built to date. The FAA believes that development of collision avoidance equipment that can meet the TCAS I MOPS is well within the state of the art for equipment manufacturers and that adequate quantities to supply the commuter/air taxi fleet can be manufactured during the time period proposed.

Part 135 operators of 10 to 19 passenger seat turbine powered airplanes would be required to have installed a TCAS I, 5 years after the effective date of the rule. TCAS I does not require the installation of a Mode S transponder.

Part 135 operators of 20 to 30 passenger seat turbine powered airplanes would be required to have installed and operating a Mode S transponder with a TCAS II 4 years after the effective date of the rule. These airplanes are of high performance, are frequently operating in the same high density terminal airspace as the Part 121 airplanes and therefore warrant the same level of TCAS equipment performance. Additionally, applying the TCAS II requirement to aircraft with this number of seats has the beneficial effect of extending TCAS II protection to a substantial number of air passengers.

Parts 121 and 125 operators would be required to have TCAS II and Mode S installed and operating on all aircraft 3 years from the effective date of the proposed rule. These operators may wish to upgrade to TCAS III units when they become available. Much research is necessary to develop TCAS III to the point that it can be type certificated. As discussed in Reference 8, the ability to produce operational TCAS III units is several years away.

Part 129 foreign air carrier operators of turbine powered airplanes with passenger seating configurations of 10 to 19 would be required to have installed and operating a TCAS I when operating in U.S. airspace 5 years after the effective date of this rule. Foreign air carrier operators of turbine powered airplanes with passenger seating configurations of 20 to 30 seats would be required to have installed and operating a TCAS II and a Mode S transponder when operating in U.S. airspace 4 years

after the effective date of this rule. Foreign air carrier operators of airplanes with more than 30 passenger seats would be required to have installed and operating a TCAS II and Mode S transponder when operating in U.S. airspace 3 years after the effective date of this rule. The FAA considers that this notice would encourage foreign airplane operators affected by this proposed rule, and their airworthiness authorities, to become familiar with the associated Technical Standard Orders (TSO's) and Radio Technical Commission for Aeronautics (RTCA) documents that will form the basis of approval and manufacture of a TCAS approved by the FAA. The TCAS systems approved by foreign airworthiness authorities would be required to be compatible and to perform with the FAA-approved TCAS, transponders, and ATC system when operating in United States airspace.

Where the rules proposed in this notice require a TCAS I or II unit, the intended minimum TCAS units are those complying with the requirements of DO-197 and DO-185 as appropriate, with the exception of Part 129 foreign air carrier operators. Where the proposed rule specifies an approved TCAS, the installer may elect TCAS I, II, or III. Where the proposed rule requires a TCAS II, the installer may elect TCAS II or III. There is no requirement, at this time, for the installation of a TCAS III system. The TCAS III system is being developed to enhance the basic TCAS II system by providing a more accurate surveillance capability and alternative escape maneuver selection in the horizontal plane. The FAA can envision that some operators may want to update their TCAS II units to TCAS III when available. The required TCAS III system design as will be defined in the applicable TSO and MOPS would permit the upgrading of a TCAS II unit to a TCAS III. In the applicable standards for TCAS II, whenever a choice exists between TCAS II and TCAS III elements (i.e., antenna, etc.), the TCAS III element would be specified in the TSO and MOPS. The FAA is committed to support the development of TCAS III. Any rulemaking concerning mandatory use of TCAS III would be handled separately from this rulemaking.

Technical Standard Order

The RTCA Special Committee SC-147 has developed RTCA Document DO-197, Minimum Operational Performance Standards (MOPS) for An Active Traffic Alert and Collision Avoidance System I (Active TCAS I). This document will form the basis of a TSO that would permit the active TCAS I to be

manufactured under the TSO approval system.

RTCA Document DO-185, Volumes I and II, Changes 1 thru 4 (and MITRE Report MTR-87W00157, Reference 10), "Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance System (TCAS) Airborne Equipment" sets forth standards for TCAS II equipment. This document will also form the basis of a TSO to permit manufacturing under the TSO approval system. The TCAS III MOPS will be a new RTCA document separate from DO-185 but will identify a system functionally compatible and interchangeable with TCAS II. The three TCAS systems I, II, and III will be identified under the TSO system by different TSO numbers. Concurrent with the publication of this NPRM the FAA is publishing for comment draft TCAS I and TCAS II TSO's defining the minimum standards for such units.

While FAA research, to date, has focused on an active TCAS I, it has been suggested by some people that a passive (listen only) device may be able to meet the same objective intended by the proposed active TCAS I units. While this regulatory proposal and parallel nonregulatory action on a TCAS I TSO presupposes an active TCAS I, the FAA wishes to go on record as not being opposed to a passive TCAS I, as long as it meets the same safety objectives of DO-197.

TCAS Training Requirements

The introduction of TCAS into revenue service need have little impact on the existing regulations regarding required crew training, and therefore should not require a change to the existing training requirements. As specified in § 121.401, a Part 121 certificate holder is required to establish, obtain the appropriate initial and final approval of, and provide a training program that meets the requirements of Part 121, Subpart N, and insure that each crewmember is adequately trained to perform his/her assigned duties. This proposal would include training on TCAS in the § 121.401 requirement. Section 121.415(g) requires that each crewmember qualify in any new equipment, including modifications to airplanes. Section 121.407(a)(3) requires that each airplane simulator and other training device be modified to conform with any modification to the airplane being simulated.

The pilot training program for TCAS should provide the flightcrew the necessary knowledge, skills and abilities to safely conduct TCAS

operations. The training program should specifically emphasize, but may not be necessarily limited to the following items:

1. A general overview of the following functions of TCAS II:

a. TCAS II is designed to detect potential collision threats and to provide the flightcrew with the information necessary to perform vertical maneuvers to safely avoid those threats.

b. TCAS II interrogates the transponders of nearby airplanes to determine range, bearing, and altitude. The results of this interrogation are used to predict the threat aircraft's flight path.

c. The TCAS II computer determines which tracks will be a threat and must be avoided. It then determines the maneuver that will give the safest separation. The appropriate displays are then activated in the cockpit to alert the flightcrew as to what action is needed.

2. A detailed discussion of the equipment, components, and modes of operation of TCAS should be discussed with the flight crew prior to the use of TCAS during line operations. This discussion should specifically emphasize, but may not be necessarily limited to, the following items:

a. TCAS control panel
b. Traffic advisory displays
c. Resolution advisory display(s) (C and F/O)
d. TCAS caution warning lights (C and F/O)

e. TCAS audible and visual warning system

3. A discussion of the limitations to the use of the TCAS.

a. Nontransponder-equipped aircraft
b. Air Traffic Control interaction
c. Procedures for returning to previous clearance after responding to a TCAS advisory

d. FAA enforcement posture

4. An overview of the operational procedures associated with the use of TCAS. The training program should include a detailed discussion of the normal and non-normal procedures associated with the use of TCAS.

a. Each feature of the TCAS TA display should be explained in sufficient detail to ensure that the flightcrew is aware of what actions, if any, are required.

b. The RA displays should be explained in sufficient detail to ensure that the flightcrew is aware of what actions, if any, are required.

c. The TCAS caution/warning lights and the aural annunciations should be explained in sufficient detail to ensure that the flightcrew is completely aware of what actions, if any, are required.

5. A capability to represent the TCAS environment in a dynamic way.

Experience with this type of device has indicated a need to ensure the complete transfer of system knowledge from the classroom to the cockpit. Due to the uniqueness of this device and its associated functions and displays, the training program should include some type of real time interactive capability. This would allow the flightcrew to experience the dynamics of the TCAS displays and reinforce the classroom discussions. The technology does exist for low-cost, computer-based, interactive training devices.

6. A definitive method of ensuring that the flightcrews demonstrate a complete understanding of the operational use of TCAS.

Reference Documents

1. The impact of a Traffic Alert and Collision Avoidance System on the Air Traffic Control radar beacon system and Mode S system in the Los Angeles Basin, May 1985, DOT/FAA/PM-84/30, Program Engineering and Maintenance Service.

2. Minimum Operational Performance Standards for Active Traffic Alert and Collision Avoidance System (TCAS I), Radio Technical Commission for Aeronautics Document No. RTCA/DO-197.

3. Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance System TCAS Airborne Equipment Volume I and Volume II, Radio Technical Commission for Aeronautics Document No. RTCA/DO-185 Changes 1-4.

4. System Safety Study of Minimum TCAS II, December 1983, DOT/FAA/PM-83/36, MTR-83W241, Program Engineering & Maintenance Service Washington, DC 20591.

5. System Safety Study of Minimum TCAS II for Instrument Weather Conditions, June 1985 DOT/FAA/PM-85/12, MTR-85W28, Program Engineering & Maintenance Service, Washington, DC 20591.

6. Analysis of Active BCAS Alert Rates and Protection Based on Actual Aircraft Tracks, February 1982, the Mitre Corp, MTR-80W267, 1820 Dolley Madison Boulevard, McLean, Virginia 22102

7. Traffic Alert and Collision Avoidance System (TCAS) Massachusetts Institute of Technology Lincoln Laboratory, Quarterly Technical Letter, 42QTL-TCAS-87-DI, 6 March 1987.

8. FAA report to Congress TCAS III, March 1987.

9. In-Service Evaluation of the Sperry Dalmo Victor Active Beacon Collision Avoidance System (BCAS/TCAS), DOT/FAA/RD-82/90, Program Engineering & Maintenance Service, Washington, DC 20591.

10. Advisory Invalid Indication, MITRE Corporation, MTR-87W00157, 1820 Dolley Madison Boulevard, McLean, VA 22102.

Regulatory Evaluation

The following is a summary of the industry cost impact and benefit evaluation for the regulatory changes proposed in this notice to require the installation and use of a TCAS in large transport airplanes and certain small

airplanes. TCAS, which utilizes the Mode S transponders will provide collision avoidance capability in the cockpit independent of the ATC ground system. In addition, these proposed rules would require that all operators of TCAS-equipped airplanes have an FAA-approved TCAS training program for flight crewmembers.

The NPRM is a result of the FAA's and the aviation industry's efforts to develop a workable midair collision avoidance system. The objective of the proposals in this notice, therefore, is to improve safety by reducing the risk of midair collisions. The FAA has considered several alternatives to the proposed rule. Among the options investigated were (1) requiring installation of TCAS III, and (2) measures to improve existing terminal control areas (TCA's). These are nonviable alternatives. Waiting for development of TCAS III would delay reducing collision risk for limited performance improvements. TCAS and TCAs are not mutually exclusive, but implementation of measures to enhance existing TCA's without an airborne collision avoidance system would forego significant additional safety gains. Further analysis of these options is presented in the regulatory evaluation contained in the docket.

Summary of Costs

The FAA finds that with the exception of the proposed revisions to Parts 121, 129, and 135, the proposals contained in this notice would have a negligible or no cost impact.

The FAA recognizes that there would be costs associated with the proposed amendments to Part 129. These costs are likely to be similar to those incurred by affected Part 121 and 135 certificate holders, but have not been quantified because the burden of compliance will not be directly borne by any sector of U.S. society.

The methods and assumptions used in the analyses for the revisions to Parts 121 and 135 have been developed by the FAA. Cost data were obtained from manufacturers, air carriers, and industry trade associations. Information for the estimation of benefits was obtained from the safety records of the NTSB and the FAA. The cost and benefits calculated for these proposals have been projected over 22 years to reflect the estimated useful life of the proposed equipment.

The proposed amendments to Part 121 would have an economic impact on 3,154 existing airplanes expected to be in service in 1989 and 3,678 new production and newly certificated

airplanes entering service between 1990 and 2011, because these aircraft would be required to be equipped with a TCAS II system. Carriers that install TCAS III when it becomes available would also be in compliance with the proposed rule. The estimated cost of this proposed requirement is \$748 million in 1986 dollars and \$396 million discounted.

The proposals to amend Part 121 also would require air carriers to develop and implement an FAA approved TCAS II training program for the flight crewmembers. The proposed training program would require that air carriers install approved TCAS II aerodynamic data programs in their flight simulators and provide an additional one and a half hours of classroom instruction during initial training for their existing and newly hired flightcrews. The estimated cost of modifying the 148 flight simulators currently in use by Part 121 certificate holders is \$2.2 million in 1986 dollars and \$2.0 million discounted at a present worth rate of 10 percent in the first year the rule is in effect. The estimated cost of requiring pilots and copilots of the affected 148 Part 121 certificate holders to undergo additional classroom training is \$38.2 million and \$16.6 million discounted over the projected time period. Finally, the one time cost of developing an FAA-approved TCAS II training program is estimated to be \$3.6 million in 1986 dollars and \$3.2 million discounted at a rate of 10 percent in the first year the rule is in effect. This analysis indicates that the total cost of compliance with the equipment acquisition, installation, maintenance, and flight crewmember training proposals contained in this notice is estimated to have a present value of \$417 million over the 22-year projected period of 1989 to 2003. Because this total includes aircraft not now in existence, and because compliance for existing aircraft is delayed for 3 to 5 years, the total costs, discounted for present worth, that would be imposed by the proposed rule in any year are less than \$100 million.

While the annual costs would not appear to exceed \$100 million, we believe the total economic effect of the rule is sufficient to warrant preparation of a Regulatory Impact Analysis, as is prepared for a major rule. Therefore, prior to the adoption of a final rule, the FAA will prepare a final RIA.

Benefits

The benefits of the amendments to Part 121 would be to minimize the possibility of midair collisions involving air carrier airplanes. The safety record indicates that two catastrophic midair collisions involving large airplanes

occurred over the 15-year period of 1972 to 1986. The projection of benefits over the 22-year life of the proposed equipment required the development of a mathematical model to assess the increase in collision risk that would result from the projected growth in aviation traffic activity. The FAA model indicates that the potential number of midair collisions involving air carrier airplanes could increase to as many as six in the 22-year period following 1989, unless measures are implemented to offset the effects of traffic growth. The benefit sensitivity analysis estimates that the number of fatalities in future midair collisions involving large air carrier airplanes could range from 1,032 to 1,074, depending on the size of the airplanes involved. Seventy-seven percent of the accidents are expected to be prevented as a result of the Part 121 TCAS Proposal. The loss of four to five transport category airplanes and 794 to 827 fatalities would be avoided. This would prevent fatality, injury, aircraft hull, property, and accident investigation costs of \$985 to \$1,103 million (\$391 to \$438 million present value). Thus, if the accident prevention effectiveness of the proposed equipment is 77 percent, the benefits of the Part 121 requirements would exceed its cost.

The proposed amendments to Part 135 would require that all turbine powered airplanes with 10 to 19 passenger seats operating within the airspace identified in this notice be equipped with a TCAS I unit and that all aircraft with 20 or more passenger seats operating in the same airspace be equipped with a TCAS II unit. In addition, the notice proposes that all operators of TCAS-equipped airplanes have an FAA-approved TCAS training program for flight crewmembers. These proposals would require the installation of 255 TCAS I units and 571 TCAS II units on existing, new production, and newly certificated airplanes over the 22-year projected service life of the proposed equipment. Again, carriers that implement TCAS III when it becomes available would comply with the proposed rule. Thus, the estimated cost of equipping 3,129 airplanes with TCAS units is \$80.6 million in 1986 dollars and \$35.2 million discounted over the subject 22-year period. The estimated cost of requiring the flightcrews of affected air taxi and commuter operators to undergo additional classroom training during the initial phase of flight training is \$1.5 million in 1986 dollars and \$.7 million at a 10 percent present worth rate. Finally, affected Part 135 operators required to have an FAA-approved training program will incur a one-time cost estimated to

be \$1.3 million in 1986 dollars and \$1.2 million discounted at 10 percent the first year the rule is in effect. On the basis of the above, the aggregate impact of these proposals on affected air taxis and commuters is \$83.4 million in 1986 dollars and \$37.1 million when discounted at 10 percent over the 22-year period of 1989 to 2011.

The benefits of the proposed addition to Part 135 would be the reduction or prevention of midair collisions involving air taxi and commuter airplanes. A similar approach to that used in the Part 121 benefit estimate has been applied to the benefit analysis for the Part 135 requirements. The safety record reveals that seven catastrophic accidents involving air taxi and commuter operators occurred during the 15-year period of 1972 to 1986. To arrive at the potential number of midair collisions that may occur during the projected 22-year period of these proposals, the FAA has assumed that the number of accidents could increase in proportion to the number of projected air taxi and commuter operations over the same time period. This calculation indicates that, in the absence of preventive measures, the number of accidents might increase to as many as 25. The number of fatalities associated with these accidents is estimated to be 260. Forty-six percent of the catastrophic accidents are expected to be prevented as a result of the proposed Part 135 amendments. The loss of 11 to 12 air taxi or commuter airplanes and approximately 382 fatalities would be avoided. This would prevent fatality, injury, aircraft hull, and accident investigation costs of \$189 million (\$76 million present value). Thus, if the accident prevention effectiveness of the proposed equipment is 46 percent, the benefits of the Part 135 requirement would exceed its cost.

The performance levels necessary for the proposals to be cost effective appear to be well within reasonable expectations. The FAA believes, therefore, that enactment of these proposed amendments would significantly reduce the number of future midair accidents and incidents and that benefits will exceed costs.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 requires a review of proposed rules to assess their impact on small business. In consideration of the cost information discussed under "Regulatory Evaluation," the FAA concludes that these proposed amendments to Parts 121 and 135 could have a significant economic impact on a substantial number of small entities. However, the

FAA finds that there are no viable alternatives for small air carriers to adopt that would reduce the cost of compliance yet achieve the levels of protection sought by these proposals. A regulatory flexibility analysis discussing this issue in more detail has been placed in docket.

International Trade Impact Statement

These proposals, if adopted, would have little or no impact on trade opportunities of U.S. firms doing business overseas or for foreign firms doing business in the United States. These proposals would impose the same requirements on both domestic operators under Parts 121 and 135 of the FAR and foreign air carriers subject to Part 129. The cost of compliance with the proposed amendments to foreign carriers flying into the United States under Part 129 is likely to be very similar to the cost incurred by domestic operators. Thus, neither domestic nor foreign air carriers will be affected disproportionately by these proposals. These proposals, therefore, will not cause a competitive fare disadvantage for U.S. carriers operating overseas or for foreign carriers operating in the United States.

Conclusion

The proposed rules contained in this NPRM would assist the FAA and the aviation industry in their efforts to prevent midair collisions, and, with the exception of the proposed revisions to Parts 121 and 135, would impose a negligible cost on a minor portion of the U.S. aviation community. The FAA believes that the proposed rules, if adopted, would significantly reduce the number of future midair collisions; thus, the estimated benefits are expected to exceed the estimated cost of implementation for all operators. These proposals, if adopted, could have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is contained in the docket. For the reasons discussed under the "Cost" section of the Regulatory Evaluation above, the proposal does not involve a major rule under Executive Order 12291. Because it involves important DOT policy, the proposal is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation for this action is contained in the regulatory docket. A copy of this may be obtained by contacting the person identified under the caption, "FOR FURTHER INFORMATION CONTACT."

List of Subjects

14 CFR Part 1

Air carriers, Aircraft, Airplanes, Air safety, Aviation safety, Safety.

14 CFR Part 91

Air traffic control.

14 CFR Part 121

Air carriers, Aircraft, Airspace, Air traffic control, Aviation safety, Safety.

14 CFR Part 125

Aircraft, Airplanes, Air traffic control.

14 CFR Part 129

Air carrier, Aircraft, Air traffic control

14 CFR Part 135

Aircraft, Airplanes, Airspace, Air traffic control, Aviation safety, Safety.

The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Parts 1, 91, 121, 125, 129, and 135 of the Federal Aviation Regulations (14 CFR Parts 1, 91, 121, 125, 129, and 135) as follows:

PART 1—DEFINITION AND ABBREVIATIONS

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

Authority: 49 U.S.C. 1347, 1348, 1354(a), 1357(d)(2), 1372, 1421 through 1430, 1432, 1442, 1443, 1472, 1510, 1522, 1652(e), 1655(c), 1857(f), 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. By amending § 1.2 by adding new definitions to read as follows:

§ 1.2 [Amended]

* * * * *

"TCAS I" means a traffic alert and collision avoidance system I, which utilizes interrogations of, and replies from, airborne radar beacon transponders and provides at least traffic advisories to the pilot.

"TCAS II" means a traffic alert and collision avoidance system II, which utilizes interrogations of, and replies from, airborne radar beacon transponders and provides traffic advisories and resolutions advisories in the vertical plane.

"TCAS III" means a traffic alert and collision avoidance system III, which utilizes interrogation of, and replies from, airborne radar beacon transponders and provides traffic advisories and resolution advisories in the vertical and horizontal planes to the pilot.

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

3. The authority citation for Part 91 continues to read as follows:

Authority: U.S.C. 1301(7), 1303, 1344, 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 12, 1983).

4. By adding new § 91.26 to read as follows:

§ 91.26 Traffic alert and collision avoidance system equipment and use.

(a) *All airspace: U.S.-registered civil aircraft.* Any traffic alert and collision avoidance system installed in a U.S.-registered civil aircraft must be approved by the Administrator.

(b) *Traffic alert and collision avoidance system, operation required.*

Each person operating an aircraft equipped with an operable traffic alert and collision avoidance system shall have that system on and operating.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

5. The authority citation for Part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421 through 1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

6. By adding new § 121.358 to read as follows:

§ 121.358 Traffic Alert and Collision Avoidance System.

(a) After (3 years after the effective date of this amendment) no person may operate a large airplane unless it is equipped with an approved TCAS II traffic alert and collision avoidance system and the appropriate class of Mode S transponder.

(b) The airplane flight manual required by § 121.131 of this part shall contain the following information on the TCAS II System required by this section:

- (1) Appropriate procedures for—
 - (i) The operation of the equipment; and
 - (ii) Proper flightcrew action with respect to the equipment.
- (2) An outline of all input sources that must be operative for the TCAS to function properly.

PART 125—CERTIFICATION AND OPERATION: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6000 POUNDS OR MORE

7. The authority citation for Part 125 continues to read as follows:

Authority: 49 U.S.C. 1354, 1421 through 1430, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97-449), January 12, 1983).

8. By adding new § 125.224 to read as follows:

§ 125.224 Traffic Alert and Collision Avoidance System.

(a) After (3 years from the effective date of this amendment) no person may operate a large airplane unless it is equipped with an approved TCAS II traffic alert and collision avoidance system and the appropriate class of Mode S transponder.

(b) The manual required by § 125.71 of this part shall contain the following information on the TCAS II system required by this section.

(1) Appropriate procedures for—

(i) The operation of the equipment; and

(ii) Proper flightcrew action with respect to the equipment.

(2) An outline of all input sources that must be operating for the TCAS II to function properly.

PART 129—OPERATIONS OF FOREIGN AIR CARRIERS

9. By revising the authority citation for Part 129 to read as follows:

Authority: 49 U.S.C. 1346, 1354(a), 1356, 1357, 1421, 1502, and 1511; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

10. By adding new § 129.18 to read as follows:

§ 129.18 Traffic Alert and Collision Avoidance System.

(a) After (5 years from the effective date of this amendment) no foreign air carrier may operate in the United States a turbine powered airplane that has a passenger seating configuration, excluding any pilot seat, of 10 to 19 seats unless it is equipped with an operating TCAS I traffic alert and collision avoidance system.

(b) After (4 years from the effective date of this amendment), no foreign air carrier may operate in the United States a turbine powered airplane that has a passenger seating configuration excluding any pilot seat, of 20 to 30 seats, or any large airplane unless it is equipped with an operating TCAS II traffic alert and collision avoidance system and the appropriate class of Mode S transponder.

(c) After (3 years from the effective date of this amendment) no foreign air carrier may operate in the United States a turbine powered airplane that has a maximum passenger seating capacity of more than 30 seats unless it is equipped with a TCAS II traffic alert and collision avoidance system and the appropriate class of Mode S transponder.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

1. The authority citation for Part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

12. By adding new § 135.180 to read as follows:

§ 135.180 Traffic Alert and Collision Avoidance System.

(a) After (5 years from the effective date of this amendment) no person may operate a turbine powered airplane that has a passenger seating configuration, excluding any pilot seat, of 10 to 19 seats unless it is equipped with an approved TCAS I traffic alert and collision avoidance system.

(b) After (4 years from the effective date of this amendment) no person may operate a turbine powered airplane that has a passenger seating configuration, excluding any pilot seat, of 20 seats or more unless it is equipped with an approved TCAS II traffic alert and collision avoidance system and the appropriate class of Mode S transponder.

(c) The airplane flight manual required by § 135.21 of this part shall contain the following information on the TCAS I or II system required by this section:

(1) Appropriate procedures for—

(i) The use of the equipment; and

(ii) Proper flightcrew action with respect to the equipment operation.

(2) An outline of all input sources that must be operating for the TCAS to function properly.

Issued in Washington, DC, on August 21, 1987

M.C. Beard,

Director of Airworthiness.

[FR Doc. 87-19496 Filed 8-24-87; 8:45 am]

BILLING CODE 4910-13-M

Faint, illegible text covering the page, likely bleed-through from the reverse side. The text is arranged in approximately three columns.

Federal Register

Wednesday
August 26, 1987

Part IV

Federal Retirement Thrift Investment Board

5 CFR Part 1650

Methods of Withdrawing Funds From the
Thrift Savings Plan; Interim Rule With
Request for Comments

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD**5 CFR Part 1650****Methods of Withdrawing Funds From the Thrift Savings Plan**

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Federal Retirement Thrift Investment Board (the Board) was established by Pub. L. 99-335 (June 6, 1986), the Federal Employees' Retirement System Act of 1986 (codified principally at 5 U.S.C. 8401 through 8479), as amended by Pub. L. 99-509, the Omnibus Budget Reconciliation Act of 1986, and Pub. L. 99-556, the Federal Employees' Retirement System Technical Corrections Act of 1986, to administer the Thrift Savings Plan for Federal employees. Regulations of the Board are contained in Title 5, CFR, Chapter VI, Parts 1600-1699. The Executive Director of the Board is publishing in Part 1650, interim regulations concerning the procedures for withdrawing amounts from Plan accounts when a participant separates from Government service or dies.

DATES: Interim rules August 26, 1987; comments must be received on or before October 20, 1987.

ADDRESSES: Comments may be sent to: Robert Bloom, Federal Retirement Thrift Investment Board, Post Office Box 18899, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Robert Bloom, (202) 653-7231.

SUPPLEMENTARY INFORMATION: Subpart A defines the terms used in this Part. Subpart B provides that a separation package containing the necessary forms referred to in the regulations, with instructions, will be given to participants when they separate from Government service. This subpart summarizes the four basic methods for withdrawing a participant's vested account balance when he or she separates from service, depending upon the participant's length of service. Section 1650.6 prescribes the rules governing the participation in the Thrift Savings Plan by persons who reenter government service after having separated with a vested account balance. Sections 1650.7 and 1650.8 prescribe the methods for choosing or changing a method of withdrawal.

Subpart C contains the rules and procedures for transferring an account balance to an individual retirement

account (IRA) or other eligible retirement plan or account when a participant separates from service. Section 1650.9(a) provides that a participant who separates from Government service before becoming entitled to a basic annuity under FERS or CSRS must transfer his or her account balance to an IRA or other eligible retirement plan. Section 1650.9(b) provides that if the account balance is less than \$250, the participant may be paid in cash, subject to the tax law requirement that the money either be rolled over into an IRA or other qualified plan within 60 days or be subject to a penalty tax.

Subpart D prescribes the rules and procedures for withdrawing an account balance in one or more substantially equal payments of at least \$25. Section 1650.10(c) provides that the dollar amount of the equal payments that the participant specifies must be at least as great as those prescribed by the Internal Revenue Service. Participants choosing payment amounts that do not meet the IRS minimums will be given an opportunity to adjust their payment amount or choose a different method of payment. Section 1650.10(d) provides that at the time a withdrawal of equal payments begins, the account balance will be transferred to the Government Securities Investment (G) Fund and thereafter the separated participant will not have the option of transferring to another investment fund.

Subpart E contains the rules and procedures under which annuities will be purchased for separating employees who choose that method of withdrawal. Section 1650.14 provides that an annuity will not be purchased if an account balance is less than \$3500. This section provides that if the participant's vested account balance is less than \$3500, the account shall be distributed, subject to the rights of spouses, by another method for which the participant is eligible.

Subpart F implements 5 U.S.C. 8435, 8351, and 8467 conferring on the spouse of a participant certain rights in connection with account balances. Section 1650.15 summarizes the rights of current and former spouses of participants. Section 1650.16 lists the withdrawal situations for which the law requires that a current or former spouse be notified. Section 1650.17 lists the withdrawal elections that require a spouse's consent and waiver. Section 1650.18 explains how a spouse's rights may be waived by joint action of the participant and spouse. Section 1650.19 provides that where the regulations require the Executive Director to notify a current or former spouse, this

requirement is satisfied by sending a notice by certified mail to the current or former spouse's last address on file with the Plan. Section 1650.20 provides that the Executive Director may waive the requirement of notice to a spouse if the participant presents proof that the spouse's whereabouts are unknown. Section 1650.21 provides that the Executive Director may waive the requirement for a spouse's consent if it is shown that the spouse's whereabouts are unknown or that there are exceptional circumstances that warrant such a waiver. Exceptional circumstances may be established only by a judicial determination. Examples of such determinations would be that (a) the spouse and the participant have been maintaining separate residences with no financial relationship for several years, and (b) the spouse abandoned the participant but, for religious or other reasons, the parties chose not to divorce.

Subpart G prescribes the rules and procedures under which a vested account balance will be distributed to a deceased participant's beneficiaries. Section 1650.22 provides that if a participant dies while employed by the Government, his or her vested account balance will be paid to the person or persons designated by the participant on the last Designation of Beneficiary Form filed with his or her agency. In the absence of a Designation of Beneficiary Form, the balance will be paid in the order prescribed by paragraphs two through six of 5 U.S.C. 8424(d). Section 1650.23 deals with situations where a participant dies while in government service. Section 1650.24 deals with situations where a participant dies after separation from government service.

Subpart H prescribes the rules and procedures by which the Executive Director will handle court orders obtained by spouses and former spouses affecting Thrift Savings Plan accounts. Section 1650.26 provides that alimony and/or child support orders which meet Social Security Act standards will be honored. Section 1650.27 provides that court orders purporting to divide a participant's account balance (retirement benefits court orders) must refer to the Thrift Savings Plan account specifically and meet other conditions. This section also requires that the Executive Director has actually received a court order before it can be honored. Section 1650.28 prescribes the documents and information which must be submitted with a retirement benefits court order by a spouse or the spouse's representative. The remainder of

Subpart H prescribes procedures that participants and other interested parties are to follow if they wish to comment upon or to appeal a proposed course of action by the Plan with respect to a court order. The subpart permits participants and/or other aggrieved parties to appeal decisions concerning court orders to the Executive Director of the Board.

Subpart I summarizes the duties which the employing agencies have with respect to transmitting information to the Thrift Savings Plan Service Office. Further details regarding these procedures are contained in the withdrawal information package which will be available to separating employees and the personnel offices of agencies.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities since the regulations will only affect the distribution of Thrift Savings Plan account balances to separated and retired government employees, their spouses, former spouses and beneficiaries.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Waive of Notice of Proposed Rulemaking and 30-day Delay of Effective Date

Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days. These regulations are being published as interim regulations because the Thrift Savings Plan is now in operation and it is necessary to have procedures in place as soon as possible for the withdrawal of account balances for the use of participants in the Plan who separate from government service or die while in service.

List of Subjects in 5 CFR Part 1650

Employee benefit plans, Government employees, Retirement, Pensions, Federal Retirement Thrift Investment Board, Francis X. Cavanaugh, Executive Director.

Title 5 of the Code of Federal Regulations is amended to add Part 1650 to Chapter VI to read as follows:

CHAPTER VI—FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THRIFT SAVINGS PLAN

Sec.

Subpart A—General

- 1650.1 Purpose and scope.
- 1650.2 Definitions.

Subpart B—Withdrawal Methods; Changes of Election

- 1650.3 Separate package.
- 1650.4 Short term employees.
- 1650.5 Longer term and disabled employees.
- 1650.6 Re-employed participants.
- 1650.7 Election of withdrawal method.
- 1650.8 Change of election.

Subpart C—Transfer to Other Plans

- 1650.9 Transfer to another eligible plan.

Subpart D—Lump Sum and Equal Payments Withdrawal

- 1650.10 Withdrawal by lump sum or equal payments.

Subpart E—Annuities

- 1650.11 Annuity option.
- 1650.12 Purchase of annuity; methods of payments.
- 1650.13 Insurable interest.
- 1650.14 Minimum balance for annuity purchase.

Subpart F—Spousal Rights

- 1650.15 General.
- 1650.16 Withdrawal elections requiring notification to spouses.
- 1650.17 Withdrawal elections requiring spousal consent and waiver.
- 1650.18 Spouse's waiver of survivor annuity.
- 1650.19 Notice to spouse.
- 1650.20 Executive Director's waiver of notice to spouse.
- 1650.21 Executive director's waiver of spousal consent.

Subpart G—Death Benefits

- 1650.22 Designation of beneficiary.
- 1650.23 Death in service.
- 1650.24 Death after separation from service.

Subpart H—Court Orders Affecting Thrift Savings Plan Benefits

- 1650.25 Purpose.
- 1650.26 Alimony and/or child support court orders.
- 1650.27 Retirement benefits court orders.
- 1650.28 Applications by former spouses and separated spouses.
- 1650.29 Processing retirement benefits court orders.
- 1650.30-1650.40 [Reserved]
- 1650.41 Termination of former spouse or separated spouse benefits.

Subpart I—Agency Duties

- 1650.42 Information.
- 1650.43 Retirement information.
- 1650.44 Beneficiary information.
- 1650.45 Forwarding of forms to the plan.

Authority: 5 U.S.C. 8351, 8434(a)(2)(E), 8434(b), 8435, 8436(b), 8467, 8474(b)(5) and 8474(c)(1).

Subpart A—General

§ 1650.1 Purpose and scope.

This part prescribes the rules and procedures under which vested account balances in the Thrift Savings Plan will be distributed upon the separation from service or death of a participant.

§ 1650.2 Definitions.

Terms used in this part shall have the following meanings:

"Account" means a participant's account in the Thrift Savings Plan.

"Account balance" means the total of employee and employer contributions in an account, earnings thereon, adjustments and expense allocations.

"Act" means the Federal Employees' Retirement System Act of 1986, Pub. L. 99-335, codified principally at 5 U.S.C. 8401-8479.

"Alimony or child support court order" means a court order which is enforceable against an account under the terms of 5 U.S.C. 8437(e)(3) and 42 U.S.C. 659.

"Assistant General Counsel" means any Assistant General Counsel of the Board.

"Basic retirement eligibility" means eligibility for an immediate or deferred annuity under the Federal Employees' Retirement System (FERS) or the Civil Service Retirement System (CSRS) or for benefits under Subchapter I of Chapter 81 of Title 5, United States Code, upon separation, or for disability benefits under Subchapters 83 or 84 of Title 5, United States Code.

"Board" means the Federal Retirement Thrift Investment Board established pursuant to 5 U.S.C. 8472.

"Court order" means any judgment or property settlement issued or approved by any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, or any Indian court, and which orders a participant to make child support and/or alimony payments or which is issued in connection with, or incident to, the divorce, annulment of marriage, or legal separation of a participant.

"Creditable service" means service described as creditable under 5 U.S.C. 8411 for FERS employees and 5 U.S.C. 8332 for CSRS employees.

"CSRS" means the retirement system established by Chapter 83 of Title 5, United States Code.

"CSRS employee" means an employee as defined in 5 U.S.C. 8331(1) or a Member as defined in 5 U.S.C. 8331(2).

Except where the context indicates otherwise, the term CSRS employee includes a former CSRS employee.

"Current spouse" means a living person who is married to an employee or retiree at the time of an event referred to in this part.

"Effective election" in this part means an election by a participant which has resulted in all or part of the participant's account balance being distributed or used to purchase an annuity.

"Eligible retirement plan" means an Individual Retirement Account (IRA) and other plans defined as eligible retirement plans by section 402(a)(5)(E)(iv) of the Internal Revenue Code.

"Employee" or "FERS employee" means an employee as defined in 5 U.S.C. 8401(1) or "Member" as defined in 5 U.S.C. 8401(20). Except where the context indicates otherwise, the term "employee" includes a former employee.

"Executive Director" means the Executive Director of the Federal Retirement Thrift Investment Board.

"FERS" means the retirement system established by Chapter 84 of Title 5, United States Code.

"Former spouse" means a living person who was married for at least 9 months to a participant who performed at least 18 months of creditable service as defined in 5 U.S.C. 8411.

"Fund mix" means the proportions in which an account is divided among the Government Securities Investment Fund, Fixed Income Investment Fund and Common Stock Index Investment Fund.

"General Counsel" means the General Counsel of the Board.

"Plan" or "TSP" means the Federal Retirement Thrift Savings Plan.

"Participant" means a person with an account in the Plan.

"Qualifying court order" means a court order that meets the requirements of § 1650.27.

"Retirement benefits court order" means a court order which purports to divide or award plan retirement benefits to a spouse or former spouse.

"Separated spouse" means a living person whose marriage to an employee is currently subject to a court order granting a legal separation.

"Short term employee" is an employee who separates from government service before attaining basic retirement eligibility.

"TSP Service Office" means the office of the Board's recordkeeper to which employing offices and separated or retired participants must submit forms or other communications required by this part.

"Transfer" means a transfer of an account balance to an eligible retirement Plan.

Subpart B—Withdrawal Methods; Changes of Election

§ 1650.3 Separation package.

At the time of separation from government service, a participant shall be given a package containing the various forms referred to in these regulations and instructions to be followed by the participant and his or her beneficiaries for filling out these forms in order to obtain payments from the participant's vested account balance pursuant to these regulations.

§ 1650.4 Short term employees.

Subject to the rights of spouses set forth in Subpart F, and the minimum balance provisions of § 1650.9(b), a participant who separates from government employment before having basic retirement eligibility must transfer the account balance, minus any employer contributions not vested in accordance with 5 U.S.C. 8432(g), to another eligible retirement plan designated by the participant. Non-vested amounts shall be forfeited.

§ 1650.5 Long term and disabled employees.

Subject to the rights of spouses set forth in Subpart F and the minimum balance requirements of § 1650.9(b) and § 1650.14, a participant who separates from government employment with basic retirement eligibility may at the time of separation or thereafter withdraw his or her account by one of the following methods:

(a) An immediate annuity for the life of the participant pursuant to Subpart E.

(b) A deferred annuity for the life of the participant pursuant to Subpart E, commencing on the date the participant specifies, but not later than April 1 of the year following the year in which the participant becomes 70½ years old.

(c) Withdrawal of the balance in the account in one payment or in substantially equal payments, to be made monthly and to commence no earlier than the date on which the participant is eligible to receive payment of a basic FERS or CSRS annuity and no later than April 1 of the year following the year in which the participant becomes 70½ years of age.

(d) Transfer to an eligible retirement plan.

§ 1650.6 Re-employed participants.

This section contains the rules governing the participation in TSP by persons who reenter government service

after having separated with a vested account balance.

(a) Any portion of a former account balance which was forfeited at the time of initial separation remains forfeited after re-employment.

(b) Civilian service performed by a former participant during his or her first period of service will be added to civilian service performed during subsequent periods of service for the purpose of determining the vested portion of the account balance during or after any subsequent period of service.

(c) If prior to reemployment the participant had commenced withdrawing his or her account balance in equal payments pursuant to Subpart D, payments will cease upon re-employment.

(d) Annuity payments being received by a re-employed participant will continue after re-employment.

§ 1650.7 Election of withdrawal method.

At the time of separation from government service, the participant shall file with the TSP Service Office a Statement Regarding Spouses, Form TSP-6, and an Election of Benefits, Form TSP-7. If the withdrawal method selected is an annuity, the participant also shall file an Election of Annuity Benefits, Form TSP-11 and comply with the requirements of Subpart E. The employing office shall complete a Validation of Retirement Information, Form TSP-18, described in § 1650.43.

§ 1650.8 Change of election.

(a) A participant may modify the date specified in a withdrawal election, or otherwise change an election previously made, subject to the following conditions:

(1) No modification of an election may be made after the date on which a transfer to an eligible retirement plan is made, a payment is made, or an annuity is purchased.

(2) No modification may specify a transfer payment date which does not allow at least 30 days processing time by the Plan.

(3) A participant may not modify any election so as to affect the rights of a spouse or former spouse unless the modification complies with Subpart F.

Subpart C—Transfer to Other Plans

§ 1650.9 Transfer to another eligible plan.

(a) A participant who separates from government service before having basic retirement eligibility must, and a participant who separates from government service with basic retirement eligibility may, transfer his or her vested account balance to an

eligible plan, subject to the rights of spouses under Subpart F. Such a transfer is accomplished by filing with the TSP Service Office an Election of Benefits, Form TSP-7, and a Designation of Qualified Plan Form, TSP-13.

(b) If a participant's vested account balance is less than \$250, he or she may choose to receive a check for that amount. In such case, a Form 1099 will be given to the participant and the Internal Revenue Service (IRS). Under applicable provisions of the Internal Revenue Code and IRS regulations, the participant will have 60 days in which to transfer the funds to an eligible retirement plan to avoid a tax penalty.

Subpart D—Lump Sum and Equal Payments Withdrawal

§ 1650.10 Withdrawal by lump sum or equal payments.

(a) A participant who separates from Government service with basic retirement eligibility may withdraw his or her account balance in one lump sum or substantially equal payments of not less than \$25 chosen by the participant subject to the rights of spouses set forth in Subpart F.

(b) *Commencement Date.* The commencement date for an equal payments withdrawal cannot be earlier than the date on which the participant would become eligible to receive payment of his or her basic retirement annuity and cannot be later than April 1 of the year following the year in which the participant becomes 70½ years old.

(c) *IRS Multiple Payments Limitations.* Multiple payments also must meet certain minimum limitations imposed by the Internal Revenue Code and IRS regulations. Participants choosing payment amounts which do not meet these requirements will be notified by the TSP Service Office and given an opportunity either to adjust their selected amount to meet the required minimum or to choose another method of payment.

(d) *Investment During Equal Payments Withdrawal.* At the time of the first payment of an equal payments withdrawal the entire account balance will be transferred to the Government Securities Investment Fund, and the participant will no longer have the option of changing his or her Fund mix.

Subpart E—Annuities

§ 1650.11 Annuity option.

Participants who have separated from government service with basic retirement eligibility have the option of having an annuity contract purchased with their account balance, subject to

the rights of spouses set forth in Subpart F.

§ 1650.12 Purchase of annuity; methods of payment.

(a) At the time a participant chooses to have his or her annuity commence under this part.

(1) The Executive Director shall expend the vested balance in the account to purchase an annuity contract of the type chosen by the participant from a company which meets the qualifications set forth by the Executive Director.

(2) Each annuity contract entered into pursuant to paragraph (a)(1) of this section shall be in accordance with these regulations and Subchapters III and VII of Chapter 84 of Title 5, United States Code.

(b) An eligible participant may select an annuity pursuant to this part by applying at least 30 days prior to the requested commencement date of the annuity on TSP Annuity Benefits, Form TSP-11, for one of the following methods of payment:

(1) A method which provides for the payment of a monthly annuity only to an annuitant during the life of the annuitant;

(2) A method which provides for the payment of a monthly annuity to an annuitant and his or her spouse and an appropriate monthly annuity to the one of them who survives the other for the life of the survivor;

(3) A method described in paragraph (b)(1) of this section, which provides annual increases in the amount of the annuity payable;

(4) A method described in paragraph (b)(2) of this section, which provides annual increases in the amount of the annuity payable;

(5) A method which provides for the payment of a monthly annuity to the annuitant for the joint lives of the annuitant and an individual who has an insurable interest in the annuitant as defined in § 1650.13 and to the one of them who survives the other for the life of the survivor; or

(6) Such other method or methods of payment as may have been approved by the Board.

(c) The five basic types of annuities described in paragraphs (1) through (5) of paragraph (b) of this section, may be selected by participants with various optional features which will be explained to participants in literature to be supplied to them prior to the selection of an annuity.

(d) Commencement dates. A TSP annuity may commence no later than April 1 of the year following the year in

which the participant becomes 70½ years old.

§ 1650.13 Insurable interest.

(a) Pursuant to 5 U.S.C. 8434(a)(2)(E)(i), the second person in a joint lives annuity with the participant may be a person who has an insurable interest in the annuitant. For this purpose an "insurable interest" is presumed to exist with—

(1) The current spouse.

(2) A blood or adopted relative closer than first cousin.

(3) A former spouse.

(4) A person with whom the participant is living in a relationship that would constitute a common-law marriage in jurisdictions recognizing common-law marriages.

(b) When an insurable interest is not presumed for a named beneficiary, the participant must submit affidavits from one or more persons with personal knowledge of the named beneficiary having an insurable interest in the participant, stating the extent to which the named beneficiary is dependent on the participant, and the reasons why the named beneficiary might reasonably expect to derive financial benefit from the continued life of the participant.

§ 1650.14 Minimum balance for annuity purchase.

Whenever the participant's vested account balance is less than \$3500, notwithstanding any other provisions of this Part, an annuity shall not be purchased and the account shall be distributed, subject to the rights of spouses, by any other method of payment for which the participant is eligible.

Subpart F—Spousal Rights

§ 1650.15 General.

(a) Pursuant to 5 U.S.C. 8435, 8351, and 8467, current and former spouses of participants are entitled under certain circumstances to:

(1) Notification prior to the transfer or payment of all or part of a vested account balance in accordance with certain withdrawal elections;

(2) Payment of all or part of a vested account balance pursuant to a qualified court order; or

(3) A survivor annuity following the death of the participant.

(b) This subpart enumerates the circumstances under which such spousal rights arise and prescribes the procedures which must be followed by participants, spouses, former spouses, and the Board to implement such rights.

§ 1650.16 Withdrawal elections requiring notification to spouses.

(a) The Executive Director will transfer a vested account balance to an eligible retirement plan for CSRS and FERS participants who separate from government service before having basic retirement eligibility only after notification of the current and each former spouse of the participant prior to notification of the current spouse of the participant in accordance with § 1650.19.

(b) No election of benefits, change of election of benefits, or modification of the commencement date of an annuity can be made effective for a CSRS participant in accordance with the requirements of § 1650.19.

§ 1650.17 Withdrawal elections requiring spousal consent and waiver.

No withdrawal election may be made or changed by a FERS participant which would defeat a current spouse's entitlement to a survivor annuity unless the affected spouse and the participant have signed and filed a Joint Waiver of Spouse's Annuity, Form TSP-14.

§ 1650.18 Spouse's waiver of survivor annuity.

(a) The right of a spouse to a survivor annuity may be jointly waived in writing by the employee and the spouse on Joint Waiver of Spouse's Annuity, Form FSP-14.

(b) When required by these regulations, the joint waiver form specified in (a) shall be filed with the TSP Service Office prior to the date that an Election of Benefits, Form TSP-7, or TSP Annuity Benefits, Form TSP-11 can be made effective.

§ 1650.19 Notice to spouse.

(a) Wherever in these regulations it is required that the Executive Director provide notice of an action affecting a participant's account to a spouse or former spouse of a participant prior to taking the action, such requirements may be satisfied by the TSP Service Office's sending a notice describing the action by certified mail to the last address of said spouse or former spouse on file with the Plan.

§ 1650.20 Executive Director's waiver of notice to spouse.

Wherever in these regulations it is required that the Executive Director give notice of an action to a spouse or former spouse of a participant, the notice may be waived in cases where the participant establishes to the satisfaction of the Executive Director that the current and/or former spouse's whereabouts cannot be determined. A request for waiver on this basis must be

submitted to the Executive Director accompanied by—

(a) A judicial or police determination that the current and/or former spouse's whereabouts cannot be determined; or

(b) Affidavits by the participant and two other persons, at least one of whom is not related to the participant, attesting to the inability to locate the current and/or former spouse and stating the efforts made to locate the current and/or former spouse.

§ 1650.21 Executive Director's waiver of spousal consent.

Wherever in these regulations a spousal consent or spousal waiver is required, the Executive Director may waive the requirement if the participant can show that:

(a) The spouse's whereabouts cannot be determined in accordance with the provisions of § 1650.20; or

(b) Due to exceptional circumstances, requiring the spouse's consent or waiver would otherwise be inappropriate. The spousal consent requirement will be waived based on exceptional circumstances only when the participant presents a judicial determination regarding the current spouse that would warrant waiver of the consent requirement.

Subpart G—Death Benefits**§ 1650.22 Designation of beneficiary.**

(a) Each participant may at any time designate on Form TSP-3 one or more beneficiaries to receive the vested amounts due from his or her account if the participant should die without having made an effective election of benefits on Form TSP-7 (and Form TSP-11 in the case of an annuity). In the absence of an effective election of benefits, the account shall be paid in the following order of precedence:

(1) To the beneficiary or beneficiaries designated by the participant in a signed and witnessed Designation of Beneficiary, Form TSP-3, received in the employing office before the death of the participant. For this purpose, a designation change or cancellation of beneficiary not so executed and received on a Form TSP-3 has no force or effect.

(2) If there is no designated beneficiary, to the widow or widower of the participant.

(3) If none of the above, to the child or children of the participant equally and descendants of deceased children equally by representation. For the purpose of this subsection, child includes a natural child and an adopted child, but does not include a stepchild.

(4) If none of the above, to the parents of the participant equally, or the survivor of them.

(5) If none of the above, to the duly appointed executor or administrator of the estate of the participant.

(6) If none of the above, to such other next to kin of the participant as is entitled under the laws of the domicile of the participant at the date of death of the participant.

(b) If the order of precedence specified in paragraph (a) of this section, starting with paragraph (a)(2) (widow or widower) of this section, is unsatisfactory to the participant, he or she should keep a current Designation of Beneficiary, Form TSP-3, on file with his or her employing office (and after separation with the TSP Service Office) at all times. A designation of beneficiary is not effective until a complete Designation of Beneficiary, Form TSP-3, has been received by the employing office (before separation) or by the TSP Service Office (after separation).

§ 1650.23 Death in service.

(a) If a participant dies while employed by the government, the participant's vested account balance will be paid in a lump sum to the person or persons designated by the participant on the last Designation of Beneficiary, Form TSP-3, filed in accordance with § 1650.22(b) or if no Form TSP-3 has been so filed, in the order of precedence provided in § 1650.22(a) (2) through (6).

(b) Notwithstanding paragraph (a), if the participant died after performing 18 or more months of creditable civilian service, a former spouse of the deceased participant is entitled to a survivor annuity if a qualifying court order expressly providing for the survivor annuity and such additional documentation and information as the Executive Director may require under § 1650.28 is received by the Executive Director prior to any distribution's being made of the account balance. This paragraph is subject to the minimum annuity amount designated in § 1650.14

§ 1650.24 Death after separation from service.

(a) If a separated participant dies and his or her account balance with the Plan already has been withdrawn by means of one of the methods specified in § 1650.5, the Plan has no further responsibility to the participant's beneficiaries.

(b) Where the account balance has been used to purchase an annuity, the annuity contract will contain provisions preserving the rights of spouses to survivor benefits consistent with 5

U.S.C. 8435 (c)(1), (e)(1), and (e)(5) unless such rights have been waived pursuant to §1650.18.

(c) If a separated participant dies and an account balance does remain, payment will be made in a lump sum, subject to the provisions of a qualified court order, to the participant's designated beneficiary or next of kin in the order of precedence designated in § 1650.22(a) (2) through (6).

(d) If a separated participant dies while receiving his account in substantially equal payments, the remainder of the account balance will be distributed, subject to the provisions of a qualified court order, in a lump sum to the participant's designated beneficiary or next of kin in the order of precedence contained in § 1650.22(a) (2) through (6).

Subpart H—Court Orders Affecting Thrift Savings Plan Benefits

§ 1650.25 Purpose.

This subpart contains regulations prescribing the procedures which must be followed by spouses or legal guardians who have obtained court orders which either:

(a) Provide for the enforcement of a participant's child support or alimony payment obligations out of a Plan account balance (alimony or child support court order) or

(b) Award a portion of a participant's retirement benefits to a former or separated spouse (retirement benefits court order).

§ 1650.26 Alimony and/or child support court orders.

(a) Section 8437(e) (2) and (3) provide that a participant's account balance in the Plan is subject to legal process for the enforcement of court orders which direct a participant to make child support and/or alimony payments as provided in section 459 of the Social Security Act (42 U.S.C. 659). Accordingly, upon receipt of such an order enforceable against an existing account balance, the Plan will make payments in compliance with the court order until the account balance is exhausted.

(b) Alimony and/or child support court orders shall be certified by the clerk of the issuing court.

(c) Service of legal process brought for the enforcement of a participant's obligation to provide child support or make alimony payments shall be accomplished by certified or registered mail, return receipt requested, or by personal service upon the General Counsel or any Assistant General Counsel of the Board. The address for

mail delivery is: Federal Retirement Thrift Investment Board, P.O. Box 18899, Washington, DC 20036. The address for personal service and hand delivery is: Federal Retirement Thrift Investment Board, Room 214, 1717 H Street NW., Washington, DC 20006. The telephone number is 202-653-7231. The legal process shall be accompanied by the name, address, social security number, and employing agency of the participant involved. Receipt by an employing agency, the TSP Service Office, or any other office of the government shall not constitute receipt by the Plan.

(d) Alimony and/or child support court orders are not subject to the procedures set forth in §§ 1650.27 through 1650.29 for Retirement Benefits Court Orders.

§ 1650.27 Retirement benefits court orders.

(a) A former spouse or separated spouse is entitled to a portion of a participant's vested account balance if the division is expressly provided for by a qualifying court order as defined in this section. The court order must divide the participant's account balance, award a payment from a participant's account balance, or award a survivor annuity.

(b) The court order must state the former or separated spouse's share as a fixed amount, as a percentage of the annuity, or by applying a formula that does not contain any variable whose value is not readily ascertainable from the face of the order or normal TSP records.

(c) For payment from a participant's vested account balance, the court order must either state the former or separated spouse's entitlement to a portion of a participant's account balance, or direct a participant to pay a portion of his or her account balance to the former spouse or separated spouse. The Plan will pay a former spouse or separated spouse directly unless the court order expressly instructs the Plan not to do so.

(d) For awarding a former spouse annuity, the court order must either state the former spouse's entitlement to a survivor annuity or direct a participant to provide a former spouse annuity.

(e) A retirement benefits court order must be received by the Federal Retirement Thrift Investment Board with accompanying information required by § 1650.28, in order to be honored. Delivery may be by ordinary, registered, certified, or overnight mail or by hand. The address for mail delivery is: Federal Retirement Thrift Investment Board, P.O. Box 18899, Washington, DC, 20036. The address for hand delivery is: Federal Retirement Thrift Investment Board, Room 214, 1717 H Street, NW.,

Washington, DC 20006. Receipt by an employing agency, the TSP Service Office, or any other office of the government shall not constitute receipt by the Plan. Payments made or annuities purchased by the Plan before receipt of a retirement benefits court order will not be affected by or be subject to said court order.

§ 1650.28 Applications by former spouses and separated spouses.

(a) A former spouse (personally or through a representative) or a separated spouse (personally or through a representative) must apply in writing for payments or an annuity under this Subpart. No special form is required.

(b) The application letter must be accompanied by—

(1) A certified copy of the court order granting the applicant a share of a participant's account balance and/or survivor benefits;

(2) A statement that the court order has not been amended, superseded, or set aside;

(3) Identifying information concerning the participant, including his or her full name, date of birth, and social security number;

(4) The current mailing address of the former spouse or separated spouse; and

(5) If the participant is alive, the mailing address of the participant.

(c) When payments are subject to termination upon remarriage pursuant to § 1650.41, no payment will be made until the former spouse submits to the Executive Director a statement in the form prescribed by the Executive Director certifying—

(1) That a remarriage has not occurred;

(2) That the former spouse will notify the Executive Director within 15 calendar days of the occurrence of any remarriage; and

(3) That the former spouse will be personally liable for any overpayment to him or her resulting from a marriage. The Executive Director may subsequently require recertification of these statements.

§ 1650.29 Processing retirement benefits court orders.

(a) Upon receipt of a retirement benefits court order without an item of documentation required under § 1650.28, the General Counsel will notify the person submitting the order which item(s) is necessary to document the claim and that the claim cannot be processed without the missing item(s).

(b) Upon receipt of a retirement benefits court order with all the documentation required under § 1650.28,

the General Counsel will review the court order to determine whether it is a qualifying order under § 1650.27, whether the participant affected by the order has an account balance, and whether he or she is receiving or is entitled to receive benefits or has died.

(c) If the General Counsel determines that the order is not a qualifying court order, the General Counsel will send copies of his decision to the participant, if alive, and to the former spouse or representative. The decision will contain the following information:

(1) That the Board has received a court order from the former spouse, but the Board has determined that the court order is not a qualifying court order.

(2) A statement of the statute or regulations under which the court order failed to qualify; and

(3) A statement of the right to appeal the decision to the Executive Director and the procedure and time limit for submitting an appeal.

(d) If the General Counsel determines that the court order is a qualifying court order, the General Counsel will send a decision to the participant, if alive, the former spouse or representative, and any other claimant whose interest is adversely affected by the court order. The decision will contain the following information:

(1) That the Board has received a court order awarding a survivor annuity or dividing the participant's account balance and the date that the Board received the documentation required by § 1650.28.

(2) The applicable law and regulations under which the Board is required to comply with the court order.

(3) That the order is a qualifying court order under applicable law and regulations.

(4) The effect that compliance with the court order will have on the participant's account balance.

(5) How the former spouse's or separated spouse's survivor annuity or share of account balance was computed.

(6) That, except for an alimony and/or child support court order enforceable pursuant to § 1650.26, nothing is payable before the participant's TSP retirement benefits are payable to the participant; and

(7) That the order must be honored unless entitlement terminates under § 1650.41.

(8) That the participant, the former spouse, or any other affected claimant may appeal the decision to the Executive Director and the procedure and time limit for submitting an appeal.

(e) If the General Counsel has determined that the court order is a qualifying court order but that the participant is not immediately eligible to receive TSP retirement benefits, the decision, in addition to the information listed in paragraphs (d) (1) through (8), of this section, will state:

(1) The effect that compliance with the court order will have, under current law and regulations, on future participant TSP retirement benefits, when payable.

(2) How the former or separated spouse's survivor annuity or share of TSP retirement benefits would be computed under current law and regulations.

(3) That an order dividing a participant's account balance will be honored when participant's TSP retirement benefits become payable, and an order granting a survivor annuity will be honored when the participant dies, unless entitlement terminates under § 1650.41.

(f) Except as provided in this subpart, the Executive Director is not required to furnish notification to any party of the receipt of a court order, its contents, or any action taken by the Executive Director or the Plan with regard to a court order.

§ 1650.30-1650.40 [Reserved].

§ 1650.41 Termination of former spouse or separated spouse benefits.

(a) The Plan will terminate a future interest in an account balance in favor of a former spouse or separated spouse whenever—

(1) The Executive Director determines that a contemporaneous or subsequent court order supersedes or sets aside the qualifying court order or directs that the Plan stop the payments; or

(2) Termination is required by the terms of the court order awarding benefits to the former spouse or separated spouse.

(b) The Plan will terminate an interest in survivor annuity benefits in favor of a former spouse whenever—

(1) The former spouse dies;

(2) The former spouse remarries before attaining age 55;

(3) A contemporaneous or subsequent court order determines that the qualifying court order awarding the benefits is invalid; or

(4) Termination is required by the terms of the court order awarding benefits to the former spouse.

(c) The Plan will honor a qualifying court order that appears valid on its face despite a pending appeal or other attack on the validity of the qualifying court

order unless the original or reviewing court has issued a stay of the qualifying court order or has ordered the Plan not to honor the qualifying court order pending the appellate or collateral review. Automatic stays under a state law will not be honored unless the original or reviewing court issues a document suspending the effect of the qualifying court order pending the review of the qualifying court order. No order described in this paragraph will be honored by the Executive Director prior to its receipt as provided in § 1650.27(e).

Subpart I—Agency Duties

§ 1650.42 Information.

Separating employees shall be provided by their employing offices with information regarding the various withdrawal options available from the Plan, along with the necessary forms and instructions for submission.

§ 1650.43 Retirement information.

At the time of a participant's separation from service, his employing office shall submit to the TSP Service Office an executed Validation of Retirement Eligibility, Form TSP-18, confirming the retirement eligibility, if any, and the date on which participant is eligible for basic retirement benefits.

§ 1650.44 Beneficiary information.

The employing office will attach the latest original Designation of Beneficiary Form from the participant's Official Personnel File to the Form TSP-18, or certify that there is no Designation of Beneficiary Form in the file.

§ 1650.45 Forwarding of forms to the plan.

Employing offices shall submit the Validation of Retirement Eligibility Form, TSP-18, and the Designation of Beneficiary, Form TSP-3, as required in §§ 1650.43 and 1650.44 to the TSP Service Office for all separating employees. As requested by the separating employee, they may also forward the remaining withdrawal forms completed by the employee to the TSP Service Office. Employing agencies shall also assist the beneficiaries of employees who die in service in completing the Application for Account Balance of Deceased Participant, Form TSP-17. The address of the TSP Service Office is Thrift Savings Plan Service Office, National Finance Center, P.O. Box 61135, New Orleans, Louisiana 70161-1135.

[FR Doc. 87-19552 Filed 8-25-87; 8:45 am]

BILLING CODE 6760-01-M

Reader Aids

Federal Register

Vol. 52, No. 165

Wednesday, August 26, 1987

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-1184
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

	523-5230
--	----------

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual

	523-5230
--	----------

Other Services

Library	523-5240
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

28681-28814	3
28815-28958	4
28959-29172	5
29173-29362	6
29363-29496	7
29497-29654	10
29655-29832	11
29833-30124	12
30125-30324	13
30325-30652	14
30653-30878	17
30879-31026	18
31027-31372	19
31373-31600	20
31601-31748	21
31749-31974	24
31975-32116	25
32117-32286	26

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

304	29497	910	29371, 30657, 31601
-----	-------	-----	---------------------

3 CFR

Proclamations:

5365 (Amended by Proc. 5690)	29655	916	31375
5686	28959	917	31375
5687	28961	921	31375
5688	29363	923	31375
5689	29365	924	31375
5690	29655	926	31977
5691	29833	931	31375
5692	30125	944	31977
5693	30653	945	31375
5694	30655	946	31375
5695	31975	947	31375
		948	31375
		1033	30886
		1036	30886
		1040	30886
		1079	31751
		1250	31376
		1421	30657
		1924	30658, 32119
		1944	29174, 31027
		1951	29174
		1962	32119
		2054	30889

Executive Orders:

6039 (Revoked in part by PLO 6656)	31623	246	31784
12519 (Amended by Proc. 5690)	29655	800	30167
12528 (Amended by EO 12604)	29495	801	30167
12604	29495	802	30167
12605	30325	907	30167

Administrative Orders:

Memorandums:		908	30167
August 5, 1987	29367	920	28724
August 12, 1987	32117	981	32016
Presidential Determinations:		994	29531, 32240
No. 87-19 of August 5, 1987	31749	1004	31408

5 CFR

572	28815	1030	29196
1603	29835	1079	30922
1650	32280	1421	30689
		1736	29531

Proposed Rules:

297	28833		
531	29862		
540	28840		
870	28841		
874	28841		
1303	31036		

7 CFR

2	31373		
28	30879		
29	30280		
46	30327		
68	31751		
210	30127		
215	30127		
220	30127		
272	29657		
275	29657		
301	29173, 31373		
319	29369		
704	29836		
713	30884		

8 CFR

204	30899		
-----	-------	--	--

Proposed Rules:

214	30329		
245a	31784		
286	29863		

9 CFR

78	30900		
93	29498		
94	30901		
97	31752		
99	29498		
101	30128		
102	30128		
103	30128		
104	30128		
107	30128		
114	30128		
115	30132		
118	30132		
318	30136		

Proposed Rules:	522..... 29030	391..... 32121	175..... 29178
1..... 29865	523..... 30140	392..... 32121	176..... 29665
2..... 29865	543..... 29387	393..... 32121	177..... 29667
91..... 28842	544..... 29387	394..... 32121	178..... 29841, 30149, 30919
92..... 30372	545..... 29387	395..... 32121	193..... 29008, 31846
94..... 30373	546..... 29387	396..... 32121	310..... 30042
317..... 30922	551..... 29387	397..... 32121	341..... 30042
318..... 30925	620..... 30374	398..... 32121	369..... 30042
381..... 30922	621..... 30374	399..... 29176, 29373, 29839, 31756, 32121	520..... 30150
10 CFR	1101..... 29865	2301..... 31496	558..... 29009
0..... 30902, 31601	13 CFR	16 CFR	561..... 29008
1..... 31601	144..... 31526	13..... 31987	862..... 29467
2..... 31601	Proposed Rules:	429..... 29507	872..... 30082
7..... 31601	107..... 28842	1015..... 28977	874..... 32110
9..... 29504	121..... 29532	Proposed Rules:	1240..... 29509
10..... 31601	125..... 32017	13..... 29535, 29537, 31412	Proposed Rules:
11..... 31601	14 CFR	429..... 29539	7..... 30171
15..... 31601	39..... 28682, 28683, 28817, 28973, 28976, 29353, 29371, 29372, 29505, 29506, 30143, 30330, 31377-31382, 31979, 31981	17 CFR	101..... 28443
19..... 31601	71..... 28684-28686, 28818, 28819, 29353, 29506, 30914, 31383-31387, 31614, 31846, 31982-31985	1..... 28980	102..... 30387
20..... 31601	73..... 28685	30..... 28980	161..... 30387
21..... 31601	75..... 28686, 28687	32..... 28980	193..... 31632, 32138
25..... 31601	97..... 28820, 30144	33..... 29508	201..... 31892
30..... 31601	121..... 28938	166..... 28980	310..... 31892
35..... 31601	125..... 28938	211..... 31027	341..... 31892
40..... 31601	127..... 28938	229..... 30145, 30917	369..... 31892
50..... 28963, 31601	129..... 28938	230..... 30145	561..... 31632, 32138
51..... 31601	135..... 28938	239..... 30145	872..... 30107, 30120
60..... 31601	1201..... 31985	240..... 30145, 30331	1308..... 30174, 30175
61..... 31601	Proposed Rules:	249..... 30917	22 CFR
70..... 31601	1..... 32268	Proposed Rules:	22..... 29514
71..... 31601	39..... 29032, 29387-29390, 29534, 30380, 31409, 31410	230..... 29033, 29206	41..... 29374, 29842
72..... 31601	61..... 29205	239..... 29033, 32018	42..... 29842
73..... 31601	71..... 28725, 28726, 29205, 29470, 29474, 29605, 29612, 30168, 30381, 30512, 31411, 31846	274..... 32018	51..... 29514
74..... 31601	75..... 30381, 30382	18 CFR	171..... 32122
75..... 31601	91..... 29205, 32268	2..... 30146, 30334	307..... 30151
95..... 31601	121..... 32268	35..... 30659	Proposed Rules:
150..... 31601	125..... 32268	154..... 29659, 30146, 32018	41..... 29542, 32026, 32095
170..... 31601	129..... 32268	157..... 29659, 30146	42..... 29542, 32026, 32095
725..... 30138	135..... 32268	201..... 30146	23 CFR
862..... 29836	15 CFR	270..... 29003, 29659, 30146	630..... 31388
Proposed Rules:	368..... 31753, 32121	271..... 29003, 29008, 29659, 30146	659..... 28691
2..... 29024, 29196, 30512	369..... 32121	273..... 29003	24 CFR
9..... 29196, 30512	370..... 31753, 31754, 32121	274..... 29003	201..... 32126
600..... 31016	371..... 29373, 31753, 32121	284..... 29659, 30334, 31029	203..... 32126
11 CFR	372..... 32121	389..... 30659, 32018	207..... 31990
106..... 30904	373..... 32121	Proposed Rules:	234..... 32126
9001..... 30904	374..... 31754, 32121	385..... 29216	255..... 31990
9002..... 30904	375..... 32121	410..... 32024	885..... 29010
9003..... 30904	376..... 32121	19 CFR	905..... 29360
9004..... 30904	377..... 29353, 32121	353..... 30660	990..... 29360
9005..... 30904	378..... 32121	355..... 30660	Proposed Rules:
9006..... 30904	379..... 29176, 32121	Proposed Rules:	115..... 29038
9007..... 30904	380..... 32121	101..... 32025	511..... 30388
9012..... 30904	381..... 32121	20 CFR	791..... 30388
9031..... 30904	382..... 32121	404..... 29659	812..... 30388
9032..... 30904	383..... 32121	416..... 29840, 31477, 31757, 32240	813..... 30388
9033..... 30904	384..... 32121	Proposed Rules:	882..... 30388
9034..... 30904	385..... 32121	320..... 30383	887..... 30388
9035..... 30904	386..... 31753, 32121	340..... 30383	25 CFR
9036..... 30904	387..... 32121	416..... 30169	22..... 30920
9037..... 30904	388..... 32121	21 CFR	62..... 30159
9038..... 30904	389..... 29176, 32121	5..... 29663	76..... 31391
9039..... 30904	390..... 32121	73..... 29664	211..... 31916
12 CFR		74..... 28688, 31990	212..... 31916
21..... 28681, 31477		101..... 28690	225..... 31916
205..... 30904		131..... 29509, 31123	Proposed Rules:
211..... 30912			179..... 29701
Proposed Rules:			26 CFR
206..... 30690			1..... 29375, 29668, 30357, 31992
220..... 32138			
221..... 29701			
338..... 30928			
501..... 29387			

48..... 31614, 32008	117..... 28693, 28694, 30670	12..... 30598	3560..... 31643
301..... 30162	165..... 30671, 31395, 31762, 31763	22..... 30671	5400..... 28850
602..... 29668, 30162, 31614, 31992, 32008		50..... 29382, 29467, 31701	5440..... 28850
Proposed Rules:	Proposed Rules:	51..... 29383, 29385	
1..... 29391, 29704, 32242	Ch. I..... 31786	52..... 28694, 29383, 29385, 32009	44 CFR
301..... 30177	34 CFR	60..... 28946, 30674	64..... 29184, 31765
601..... 30996	221..... 28814	61..... 30920	65..... 29014, 29015
602..... 29704	309..... 29816	180..... 29013, 31029, 32128	67..... 29016
27 CFR	315..... 31958	228..... 29845, 30360	80..... 30683
Proposed Rules:	350..... 30060	261..... 28696, 28697, 29846-29849	81..... 30683
4..... 30390	351..... 30060	271..... 29522, 30681, 30682	82..... 30683
5..... 30390	352..... 30060	799..... 28698, 31962, 32240	83..... 30683
9..... 29705	353..... 30060	Proposed Rules:	Proposed Rules:
28 CFR	354..... 30060	2..... 29045	65..... 29228
Proposed Rules:	355..... 30060	13..... 32098	67..... 31417
2..... 30691	356..... 30060	22..... 29222	302..... 32140
29 CFR	357..... 30060	24..... 29222	45 CFR
1910..... 31852	358..... 30060	50..... 29392	96..... 31030
1915..... 31852	359..... 30060	52..... 29392, 29394, 30189, 31789, 31791	233..... 28824
1917..... 31852	363..... 30546	60..... 29548, 31633, 32026	304..... 32130
1918..... 31852	371..... 30554	80..... 31162, 31274	1207..... 32132
1926..... 31852	386..... 30554	86..... 31162, 31274	1208..... 32133
1928..... 31852	502..... 30322	122..... 30931	1612..... 28777
2603..... 30662	504..... 30322	123..... 30931	2002..... 28705
2676..... 30358	524..... 30322	160..... 31635	2010..... 30582
Proposed Rules:	607..... 30526	180..... 29050, 31635	Proposed Rules:
1..... 31366	608..... 30536	228..... 29550, 30189, 31636	16..... 30194
5..... 31366	609..... 30536	260..... 29708	402..... 30194
103..... 29038	614..... 30560	264..... 31948	1612..... 28777
1910..... 28727, 29620	629..... 29824	265..... 29708, 30570	46 CFR
1915..... 28727	631..... 29140	268..... 29992	54..... 31623
1917..... 28727	632..... 29140	270..... 29708, 30570	67..... 31767
1918..... 28727	633..... 29140	271..... 30192, 30570	111..... 31623
2580..... 31039	634..... 29140	600..... 31162, 31274	150..... 31623
30 CFR	635..... 29140	761..... 31738	154..... 31623
750..... 31621	636..... 29140, 30282	763..... 29228	Proposed Rules:
816..... 29180	650..... 29356	795..... 29395, 29990	1..... 31786
935..... 29515, 30666	668..... 30114	796..... 29395	3..... 31786
946..... 30668	673..... 29120	799..... 29395, 31970	10..... 31429
Proposed Rules:	762..... 29608	41 CFR	27..... 29556
48..... 30391	785..... 30612	101-26..... 29522, 29523	157..... 31429
75..... 30391	786..... 30612	201-8..... 30280	187..... 31429
202..... 29868, 30776, 30826	787..... 30612	Proposed Rules:	558..... 29708
203..... 29868, 30826	789..... 30612	105-55..... 31642	559..... 29708
206..... 29868, 30776, 30826	796..... 30612	42 CFR	560..... 29708
207..... 30826	35 CFR	400..... 30362	561..... 29708
210..... 30826	9..... 31396	405..... 28823	562..... 29708
212..... 29868	36 CFR	409..... 28823	564..... 29708
218..... 29868	7..... 31764	410..... 29353	566..... 29708
241..... 30826	222..... 30359	412..... 30362	569..... 29708
256..... 29222	1250..... 29517	442..... 28823	586..... 29396
925..... 29546	1258..... 29517	Proposed Rules:	47 CFR
943..... 30930	Proposed Rules:	405..... 29605	Ch. I..... 31768
946..... 28849	7..... 31788	413..... 29605	1..... 31769
31 CFR	9..... 28850	441..... 29605	22..... 29186, 29386
Proposed Rules:	37 CFR	482..... 29605	31..... 29018
223..... 29039	202..... 28821	485..... 29605	32..... 29018
32 CFR	Proposed Rules:	43 CFR	73..... 28705, 28825, 29851-29854, 31031, 31398, 31771-31773, 32135
40..... 29844	201..... 28731	4..... 32130	74..... 31398
174..... 29181, 30766	38 CFR	3450..... 28824	80..... 28825
292a..... 29182	Proposed Rules:	Public Land Orders:	90..... 29855
2003..... 28802, 29793	21..... 30178, 31416	1231 (Revoked in part by PLO 6655)..... 31623	94..... 29855
Proposed Rules:	39 CFR	6651 (Corrected by PLO 6655)..... 31623	97..... 28826
199..... 29044, 30391	10..... 29697	6653..... 29525	Proposed Rules:
33 CFR	20..... 29697	6654..... 29525	Ch. I..... 28731
100..... 29516, 30164, 31395, 31622	111..... 29011	6655..... 31623	2..... 31432
	965..... 29012	6656..... 31623	22..... 31042
	40 CFR	Proposed Rules:	69..... 31793
	1..... 30359	3160..... 30282, 30310, 30826	73..... 28731, 27732, 29235, 29869-29872, 30692, 30694, 31043, 31044, 31432, 31793-31795, 32141, 32142
		3480..... 29868	

90..... 29051, 31796
 95..... 29396
 97..... 29052

48 CFR

1..... 30074
 5..... 30074
 7..... 30074
 13..... 30074
 19..... 30074
 22..... 30074
 25..... 30074
 28..... 30074
 31..... 30074
 32..... 30074
 45..... 30074
 52..... 30074
 53..... 30074
 204..... 28705
 215..... 28705, 30687
 230..... 28705
 232..... 30368
 252..... 30368
 253..... 28705
 825..... 32012
 833..... 32012
 852..... 32012

Proposed Rules:

47..... 31722
 52..... 31722
 504..... 30694
 507..... 28827
 508..... 28827
 514..... 30694
 515..... 30694
 522..... 30694
 525..... 28828, 30694
 532..... 30694
 534..... 30694
 536..... 30694
 537..... 30694
 552..... 28827, 30694
 553..... 28827, 30694
 904..... 28716
 952..... 28716
 970..... 28716, 30998

49 CFR

1..... 30688
 171..... 29526
 172..... 29526
 173..... 29526
 509..... 29857
 701..... 31407
 830..... 30370
 1002..... 31773
 1011..... 30165
 1059..... 32135
 1132..... 30165
 1161..... 30165
 1162..... 30165

Proposed Rules:

Ch. X..... 30393
 172..... 31486
 571..... 29873, 30393
 580..... 29556
 647..... 29709
 1039..... 29873
 1165..... 30933
 1206..... 28854
 1249..... 28854

50 CFR

17..... 28780, 28828, 29751,
 29754, 29784

20..... 28717, 29187, 31773,
 32013
 25..... 29858
 285..... 28831
 611..... 29528, 31032, 31631
 655..... 30166
 661..... 28721, 29019, 29020,
 29528, 29700, 29860,
 31033, 32015, 32135
 662..... 31631
 663..... 31034
 672..... 32137
 674..... 29020, 30766
 675..... 28722, 29021, 31032
 685..... 32015

Proposed Rules:

17..... 28787, 31045-31051,
 32143, 32145
 20..... 30395
 32..... 28931
 611..... 30212
 649..... 28732
 663..... 29400
 675..... 30212

LIST OF PUBLIC LAWS

Last List August 14, 1987

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.J. Res. 313/Pub. L. 100-88

Designating the month of August 1987 as "National Child Support Enforcement Month". (Aug. 13, 1987; 101 Stat. 665; 1 page) Price: \$1.00

H.R. 318/Pub. L. 100-89

Ysleta del sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act. (Aug. 18, 1987; 101 Stat. 666; 7 pages) Price: \$1.00

H.R. 348/Pub. L. 100-90

To amend title 39, United States Code, to extend to certain officers and employees of the United States Postal Service the same procedural and appeal rights with respect to certain adverse personnel actions as are afforded under title 5, United States Code, to Federal employees in the competitive service. (Aug. 18, 1987; 101 Stat. 673; 1 page) Price: \$1.00

H.R. 921/Pub. L. 100-91

To require the Secretary of the Interior to conduct a study to determine the appropriate

minimum altitude for aircraft flying over national park system units. (Aug. 18, 1987; 101 Stat. 674; 5 pages) Price: \$1.00

H.R. 1403/Pub. L. 100-92

To designate the United States Post Office Building located in St. Charles, Illinois, as the "John E. Grotberg Post Office Building". (Aug. 18, 1987; 101 Stat. 679; 1 page) Price: \$1.00

H.R. 1444/Pub. L. 100-93

Medicare and Medicaid Patient and Program Protection Act of 1987. (Aug. 18, 1987; 101 Stat. 680; 20 pages) Price: \$1.00

H.R. 2309/Pub. L. 100-94

To amend the Christopher Columbus Quincentenary Jubilee Act. (Aug. 18, 1987; 101 Stat. 700; 4 pages) Price: \$1.00

H.R. 2855/Pub. L. 100-95

Wampanoag Tribal Council of Gay Head, Inc., Indian Claims Settlement Act of 1987. (Aug. 18, 1987; 101 Stat. 704; 7 pages) Price: \$1.00

H.J. Res. 216/Pub. L. 100-96

To support a ceasefire in the Iran-Iraq war and a negotiated solution to the conflict. (Aug. 18, 1987; 101 Stat. 711; 2 pages) Price: \$1.00

S. 769/Pub. L. 100-97

Excellence in Minority Health Education and Care Act. (Aug. 18, 1987; 101 Stat. 713; 2 pages) Price: \$1.00

S. 1371/Pub. L. 100-98

To designate the Federal building located at 330 Independence Avenue, SW, Washington, District of Columbia, as the "Wilbur J. Cohen Federal Building". (Aug. 18, 1987; 101 Stat. 715; 1 page) Price: \$1.00

S. 1577/Pub. L. 100-99

To extend certain protections under title 11 of the United States Code, the Bankruptcy Code. (Aug. 18, 1987; 101 Stat. 716; 1 page) Price: \$1.00

S. 1597/Pub. L. 100-100

To amend the Farm Disaster Assistance Act of 1987 to extend the reporting date for the ethanol cost effectiveness study. (Aug. 18, 1987; 101 Stat. 717; 1 page) Price: \$1.00

S.J. Res. 44/Pub. L. 100-101

To designate November 1987, as "National Diabetes Month". (Aug. 18, 1987; 101 Stat. 718; 1 page) Price: \$1.00

S.J. Res. 49/Pub. L. 100-102

To designate September 18, 1987, as "National POW/MIA Recognition Day". (Aug. 18, 1987; 101 Stat. 719; 1 page) Price: \$1.00

S.J. Res. 87/Pub. L. 100-103

To designate November 17, 1987, as "National Community Education Day". (Aug. 18, 1987; 101 Stat. 720; 1 page) Price: \$1.00

S.J. Res. 108/Pub. L. 100-104

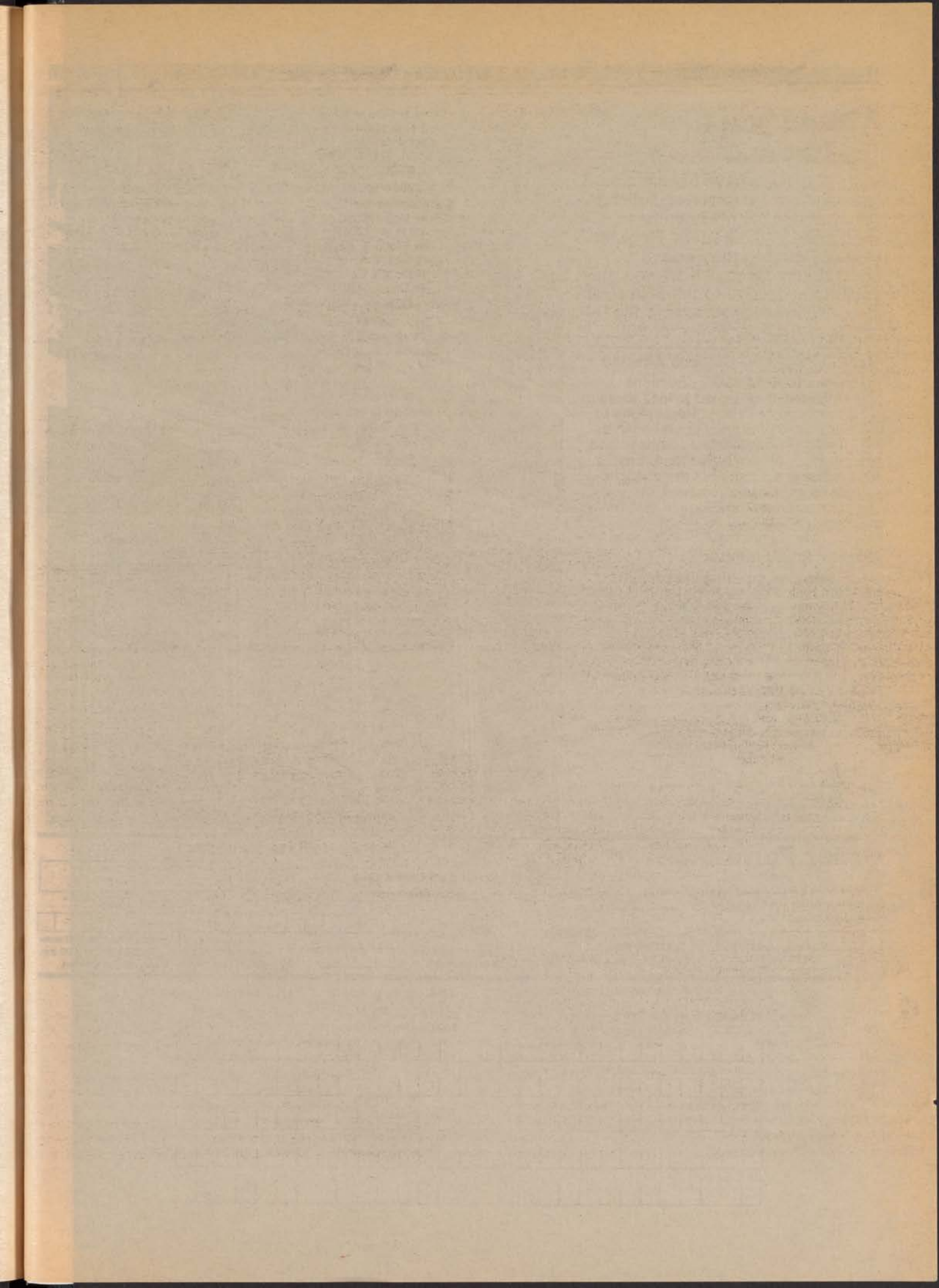
To designate October 6, 1987, as "German-American Day". (Aug. 18, 1987; 101 Stat. 721; 1 page) Price: \$1.00

S.J. Res. 109/Pub. L. 100-105

To designate the week beginning October 4, 1987, as "National School Yearbook Week". (Aug. 18, 1987; 101 Stat. 722; 1 page) Price: \$1.00

S.J. Res. 157/Pub. L. 100-106

To designate the month of October 1987, as "Lupus Awareness Month". (Aug. 18, 1987; 101 Stat. 723; 1 page) Price: \$1.00



Would you like to know...

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

LSA - List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected.

\$24.00 per year

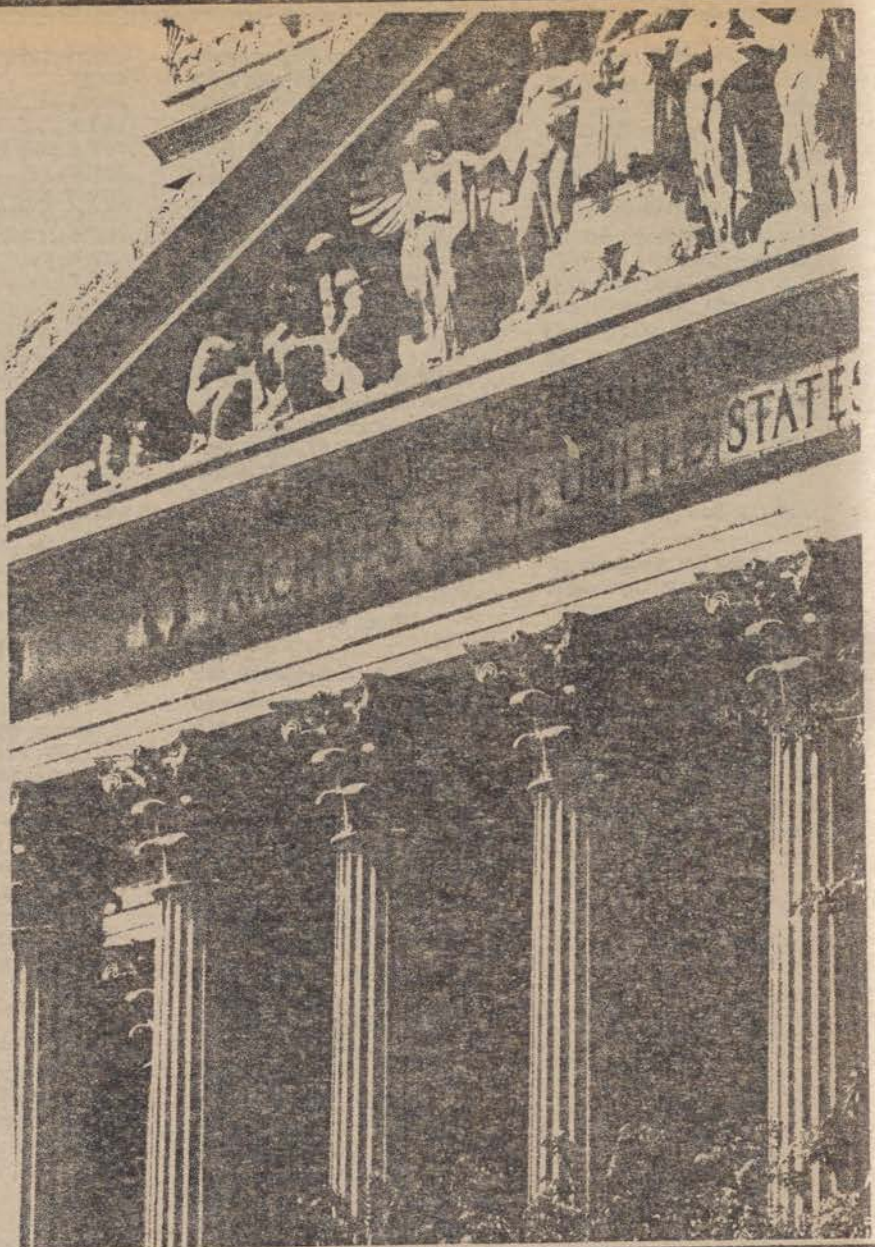
Federal Register Index

The Index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

\$22.00 per year

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR Indexes and the LSA (List of CFR Sections Affected) are mailed automatically to regular FR subscribers.



Order Form

Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is \$ _____ check,
 money order, or charge to my
Deposit Account No.

Order No. _____

MasterCard and
VISA accepted.



Credit Card Orders Only

Total charges \$ _____

Credit
Card No.

Customer's Telephone Nos.											
Area Code			Home			Area Code			Office		

Expiration Date
Month/Year

--	--	--	--	--

Charge orders may be telephoned to the GPO order desk at (202)783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Please enter the subscription(s) I have indicated: _____

LSA

List of CFR Sections Affected
\$24.00 a year domestic;
\$30.00 foreign

Federal Register Index

\$22.00 a year domestic;
\$27.50 foreign

PLEASE PRINT OR TYPE

Company or Personal Name

Additional address/attention line

Street address

City

State

ZIP Code

(or Country)
