Thus, both statutes have small entity orientation and compatibility.

There are approximately 115 handlers of almonds who are subject to regulation under the marketing order and approximately 7,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This action amends § 981.441 of Subpart—Administrative Rules and Regulations. Section 981.41 of the order provides authority for crediting a handler's direct expenditures for advertising against such handler's assessment obligation. Section 981.441(d)(1)(i) of the rules and regulations allows handlers credit for distributing generic packages of almonds to charitable or educational outlets. Handlers must file claims with the Board in order to receive credit for the distribution of such sample packages.

Heretofore, there has been no published definitions of "charitable outlet". In the past, Board policy has been to use those charitable organizations described in the Internal Revenue Code (IRC), section 170(c) as a guideline in evaluating advertising claims. Such organizations are those to which contributions are tax deductible. They are listed in the Internal Revenue Service Publication No. 78.

At its December 5, 1991, meeting the Board recommended amending § 981.441 of the Administrative Rules and Regulations to specify that charitable outlets for which handlers may receive credit for distributing generic almond packets must be those charities described in the IRC. This action will clarify the definition of "charitable outlet" contained in § 981.441(d)(1)(i) of the marketing order regulations. This action will not impose any additional economic, regulatory, or recordkeeping burden on handlers.

This final rule is based on a recommendation of the Board, a comment received in response to a proposed rule on this matter, and upon other available information. The Department has decided that the criteria contained in section 170(c) of the IRC are appropriate to establish the definition of "charitable outlet" in the marketing order regulations. The IRC is widely known and establishes the most important requirements for charitable organizations to meet. Under this final rule, charitable outlets would include (1) a state or possession of the United States if the gift is made for public purposes; (2) certain corporations, trusts, community chests, funds, and foundations which are organized and operated exclusively for religious, charitable, scientific, literary, educational or other listed purposes; (3) certain posts or organizations of war veterans; (4) certain domestic fraternal societies, orders, and associations operating under a lodge system, and; (5) certain cemeteries and burial societies. The IRS publication No. 78 lists over 350,000 organizations which have been determined to qualify for tax-deductible contributions under this definition.

The proposed rule was published in the Federal Register on January 27, 1992 (57 FR 3032). Interested persons were invited to submit comments on the proposal until February 26, 1992. One comment was received from an independent handler opposing the regulation. The commenter stated that handlers should be able to distribute almonds to any outlet that the handler believes is needy, regardless of whether the organization is registered with the Internal Revenue Service. The commenter also stated that a handler will not receive the recognition and goodwill if its charity contributions are distributed only among larger organizations that are described in the IRC. The Department believes that the description of the types of organizations in the IRC is broad enough to provide handlers with a large number of organizations to which they can make charitable donations. Handlers will not be restricted to donating to larger charities.

The commenter also requested that the proposal be effective for future disposition of charitable packets and not be applied retroactively. This action is a regulatory promulgation of a Board policy that has been followed for the past several years, and does not change that policy. Thus, this comment is denied.

The Department has made a non-substantive revision to the text of the proposed rule to clarify the definition of "charitable outlet."

After consideration of all relevant matters presented, the Board recommendation, the comment received, and other available information, it is found that the issuance of this rule will tend to effectuate the declared policy of the Act.

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

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

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

2. Section 981.441(d)(1)(i) is amended by revising the first sentence and adding a new sentence after the revised first sentence to read as follows:

§ 981.441 Crediting for marketing promotion including paid advertising.

* * * * *

(d) * * *

(1) * * *

(i) For the distribution of sample packages containing one-half ounce or less of almonds to charitable or educational outlets. For the purposes of this section, the term "charitable outlet" means an organization to which a charitable contribution as defined in Section 170(c) of the Internal Revenue Code (26 U.S.C. Section 170(c)) may be made. * * *

* * * * *

Dated: July 2, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-16060 Filed 7-8-92; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AD89

Decommissioning Funding for Prematurely Shut Down Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations on the timing of the collection of funds for decommissioning for those nuclear power reactors that have shut down before the expected ends of their operating lives. These amendments require that the NRC evaluate decommissioning funding plans for power reactors that shut down

U.S. NUCLEAR REGULATORY COMMISSION

In the Matter of Louisiana Energy Services, LP

Docket No. 70-3103-ML Official Exhibit No. Staff S7-M

OFFERED by: Applicant/Licensee Intervenor: _____

NRC Staff _____

IDENTIFIED on 3/16/06 Panel: Staff Financial Assurance

Action Taken: ADMITTED REJECTED WITHDRAWN

Reporter/Clerk: Bethany Engel

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OFFICE OF THE SECRETARY
ADJUDICATIONS STAFF

prematurely on a case-by-case basis. The NRC's evaluation would take into account the specific safety and financial situations at each nuclear power plant.

EFFECTIVE DATE: August 10, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Wood, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-1255.

SUPPLEMENTARY INFORMATION:

Background

On June 27, 1988 (53 FR 24018), the NRC published a final rule that amended 10 CFR parts 30, 40, 50, 51, 70, and 72. This final rule established several acceptable methods by which power reactor licensees may provide assurance that they will have sufficient funds to decommission their plants by the time the plants are permanently shut down (53 FR 24043). In considering this final rule, the Commission acknowledged that, in certain instances, reactors might be permanently shut down before completing the full term of their operating lives. However, because the Commission determined that such instances would be infrequent, it did not explicitly include remedies for this situation in the final rule.

In establishing the June 27, 1988, final rule, the Commission recognized that power reactor licensees generally have access to significant amounts of financial capital and are closely regulated. Therefore, the Commission allowed these licensees the option of accumulating decommissioning funds over the projected operating life of the facility rather than requiring that these funds be available or guaranteed prior to operation, or at some time before the end of the projected operating life of the facility. The Commission recognized the risk that, if some reactors did not operate for their entire operating lives, those licensees might have insufficient decommissioning funds at the time of permanent shutdown.

After the NRC published the June 27, 1988, final rule, four power reactor facilities shut down prematurely: The Fort St. Vrain Nuclear Generating Station, the Yankee Rowe Nuclear Power Station, the Rancho Seco Nuclear Generating Station, and the Shoreham Nuclear Power Station. The NRC staff sought the Commission's guidance on the appropriate period for collecting funds to compensate for any shortfall of decommissioning funds for plants such as these that shut down prematurely. The Commission elected to determine the appropriate collection period for any decommissioning funding shortfall for prematurely shut down power reactors on a case-by-case basis. As part of its decision, the Commission directed the NRC staff to prepare a rulemaking that would codify this case-by-case approach. A proposed rule implementing this approach was published in the Federal Register on August 21, 1991 (56 FR 41493).

Analysis of and Response to Comments

The NRC received 17 comments in response to the proposed rule. Eleven comments were from NRC-licensed electric utilities; two from utility trade groups; one from a utility counsel; two from bond rating/investment advisory companies; and one from a public interest group.

Except for the comment from the public interest group, all comments supported that part of the proposed rule that would allow the period of funds accumulation for a prematurely shut down reactor to be determined on a case-by-case basis. However, most utilities and their representatives opposed the guidance in the preamble to the proposed rule that would use a bond rating of "A" as a criterion for determining the future solvency of and thus the extent of the funding period for a licensee with a prematurely shut down power reactor.

1. Comment: The use of bond ratings.

The commenters offered a variety of reasons why they considered bond ratings, particularly at the "A" level, to be inappropriate for judging a licensee's ability to pay for decommissioning for a prematurely shut down reactor. These reasons included the following:

(1) Bond ratings are too restrictive and do not allow for variations in licensees situations as contemplated by the case-by-case approach.

(2) Bond rating may not be an accurate indicator of a licensee's future ability to pay for decommissioning.

(3) Not all licensees issue debt that is rated. In the case of poser plants with several owners, owners will likely have different ratings.

(4) Bond ratings would likely decline by virtue of a premature reactor shutdown, thus precipitating further financial problems and further downratings.

(5) Differences in ratings by different services or for different classes of debt issues were not addressed.

(6) Reliance on bond ratings may result in unsound business decisions to avoid accelerated fund accumulation or may discourage use of the SAFSTOR decommissioning option.

(7) A "BBB" rating, or equivalent, is still considered investment grade and is used as a criterion in Regulatory Guide 1.159 [1] and Appendix A to 10 CFR part 30.

(8) A one-year trigger period is too short and may be disruptive.

(9) Possible adverse tax consequences may accrue if accelerated payments are required.

Response: The NRC continues to believe that bond ratings can serve as one of several criteria to estimate the ability of a licensee to pay future decommissioning costs. The NRC did not intend that this rule set a mandatory requirement that a minimum "A" rating must be met before the NRC would approve funding into a shut down reactor's safe storage period. Rather, one reason the "A" rating criterion was proposed was to serve as a screening test of whether additional financial data was required to determine whether the licensee should be allowed to fund decommissioning into a storage period. If a licensee met this criterion, the licensee would not have to prepare and submit additional documentation of its financial situation to be allowed to fund decommissioning into a storage period. A benefit of the proposed screening test was a potential saving of licensee and NRC resources to develop and review the additional financial data.

With respect to the level of rating (i.e., "A" vs "BBB" or equivalent), the preamble to the proposed rule presented a rating of "A" as a threshold below which a licensee would be required, if other criteria were not met, to accelerate payment of any decommissioning funding shortfall. The staff chose an "A" rating because a downrating from "A" to "BBB" would allow a licensee to secure funds or meet other criteria while its rating was still investment grade. To that extent, an "A" rating is not inconsistent with the use of "BBB" ratings in Regulatory Guide 1.159 and appendix A to 10 CFR part 30. In Regulatory Guide 1.159, a "BBB" bond rating was used as a minimum suggested standard for a mixed portfolio of investments in a decommissioning trust. Because of investment diversification, a "BBB" investment standard represents a

[1] Regulatory Guide 1.159 is available for inspection and copying for a fee at the Commission's Public Document Room 2120 L Street, N.W., (Lower Level), Washington, D.C. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, D.C. 20013-2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5825 Port Royal Road, Springfield, VA 22161.

relatively low level of financial risk. Similarly, appendix A of part 30 used a "BBB" rating as a minimum for a parent company of a licensee to guarantee decommissioning costs. Because a parent company is a separate legal entity from its subsidiary, the NRC would potentially have access to two sources of funds (the licensee and its parent) thus reducing the risk of decommissioning funding shortfalls. For this reason, the NRC disagrees that an "A" bond rating standard is too stringent as a screening test.

For these reasons, the NRC will continue to use the "A" bond rating as a screening test for determining the decommissioning funding period for prematurely shut down power reactors. If a power reactor licensee cannot pass the initial screening test, or if it has passed the screening test but subsequently loses its "A" bond rating, this licensee could still be allowed to fund into the storage period by meeting other criteria as described below.

These criteria include:

(1) A licensee's financial history including its past funding of reactor safety expenditures;

(2) The local rate regulatory environment and other relevant State laws including public utility commission (PUC) commitments;

(3) The number of other generating plants, both nuclear and non-nuclear, in its system. This is another way of measuring the relative impact of decommissioning costs on a particular licensee's finances; and

(4) Other factors that a licensee can demonstrate as being relevant.

The NRC wishes to clarify that it assumes that most licensees with "BBB" bond ratings would still be able to obtain NRC approval of decommissioning funding into the safe storage period for a prematurely shut down reactor. This is because most licensees will be able to successfully meet the other criteria described above even if they are unable to pass the "A" bond rating screening test. Recent exemptions issued to two prematurely shut down plants (Rancho Seco and Shoreham) indicate that bond ratings are only one of several factors that the NRC will use to determine whether a licensee has demonstrated reasonable assurance of its ability to pay decommissioning costs. Finally, this discussion on the use of bond ratings is intended as non-binding guidance only; this final rule includes no such detailed criteria.

2. Comment: It is not necessary to require that all funds should be available in external funds or guaranteed by the time final dismantlement activities commence.

A few commenters disagreed with the NRC's statement that all funds are required to be available or guaranteed in external funds by the time final dismantlement activities commence. Some commenters hypothesized scenarios in which relatively small funding shortfalls may be covered in rates already approved by a licensee's PUC or the Federal Energy Regulatory Commission (FERC) prior to actual collection. In this situation, funds, although not strictly available at the time final dismantlement activities commence, would have a high degree of assurance of being obtained by the time the licensee needed to complete the dismantlement activities. Another commenter suggested that the NRC's requirement of full funding prior to the start of final dismantlement operations is inconsistent with a case-by-case approach. This commenter recommends that licensees be required to provide assurance that funds are available to complete specific dismantlement activities, rather than the entire dismantlement process.

Response: The NRC disagrees with recommendations that the NRC should abandon its general policy of requiring all funds needed for decommissioning be available prior to the start of final dismantlement. As described in the proposed rule (56 FR 41493), the June 27, 1988, final rule clearly requires funds at the time of permanent end of operations. Section 50.75(e)(1) defines the three methods of financial assurance acceptable for power reactor licensees. Two of the methods, prepayment and surety or insurance, provide all funds by the time of permanent shutdown. The third acceptable method, an external sinking fund, is defined as "a fund established and maintained by setting funds aside periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected."

This requirement was imposed to avoid a situation where lack of funds could delay and degrade the decommissioning process to the detriment of public health and safety. Although the dismantlement process can be completed in discrete stages, the potential unavailability of funds at a later stage may conceivably affect the dismantlement process at an earlier stage by creating incentives to "cut corners." Thus, this requirement was not altered in the proposed rule on funding for plants that shut down prematurely and will remain in the final rule.

3. Comment: Accelerated funding when there is a risk of premature shutdown.

One commenter asked the NRC to allow accelerated funding in cases where there is a risk of premature shutdown. This commenter specifically referred to its request for FERC to accelerate funding over a shorter period than the fill remaining operating life so that adequate funds would be available at the time of permanent shutdown. The commenter also indicated that its request was denied by FERC.

Response: The NRC strongly supports any effort by its licensees to accelerate funding, especially when a serious possibility of premature shutdown is anticipated. The NRC further believes that existing regulations (i.e., 10 CFR 50.75(e)) would allow accelerated funding and that, in appropriate circumstances, accelerated funding could be ordered if necessary of desirable for safety. In any case, the NRC would defer to FERC or the appropriate PUC for the appropriate rate treatment of accelerated funding.

4. Comment: Amending 10 CFR 50.82 to clarify issuance of possession-only licenses and other procedural aspects of decommissioning.

One commenter recommended that § 50.82 be amended to indicate the timing and procedures for decommissioning. The commenter requests that the NRC specify when it will issue a possession-only license or other license amendments to permits scaling back site operations.

Response: The NRC is evaluating its regulations concerning decommissioning and is considering issuing proposed amendments to clarify its procedures in the areas suggested by the commenter. To expedite this rule, however, the NRC will consider the timing of possession-only licenses and other license amendment procedures as part of a separate rulemaking action.

5. Comment: The case-by-case approach "fails to provide sufficient protection to the public's health and safety."

A commenter argues that many plants will shut down prematurely in the future and safe storage is neither risk free nor cheap. Thus, adequate funds for safe storage must be assured, in addition to funds for actual decommissioning. Therefore, plants must have adequate funding available for the time of

shutdown and not be allowed to fund into the safe storage period. Further, this commenter asserts that "A" bond ratings are inadequate because "in many instances, utility (and other) bonds have gone from investment grade status to junk or default status in one step." In the event of a precipitating incident such as an accident, "there is no likelihood at all that the derating process will be gradual * * *." This commenter concludes by stating that the NRC "should determine how to insure, in each and every case, that adequate funds are available."

Response: This commenter makes several assertions to support the commenter's opposition to funding during a safe storage period. These assertions, however, are not supported by facts. It is not true that most bond ratings, especially for electric utilities, move quickly through several categories of ratings. The process is almost always gradual and, therefore, would almost always give the NRC time to take steps to assure the adequacy of fundings during a storage period. In addition, this commenter also ignores NRC's requirement that its power reactor licensees carry accident recovery insurance of at least $1.06 billion (10 CFR 50.54(w)) to provide a source of funds for accident cleanup and decontamination. This requirement reduces the likelihood that premature decommissioning resulting from an accident would be particularly financially stressful.

More importantly, the NRC would, as stated, evaluate each instance of premature decommissioning on a case-by-case basis. The criteria discussed above provides the NRC with a variety of measures to assure the adequacy of funding. The case-by-case approach that is being adopted in this rule allows the NRC to consider the participation financial situation for each licensee that shuts down its power reactor before the expected end of operation life. In spite of the commenter's assertions, the Commission does not expect this to be a frequent occurrence. When it does occur, in most situations the majority of decommissioning funds will have been collected during the operating life of the shut down reactor. Most licensees currently have substantial amounts collected and would, at the least, be able to fund activities necessary to place a shut down reactor into safe storage. Whatever funding shortfall remains can be collected or guaranteed in a time frame and through funding mechanisms commensurate with a licensee's financial situation. As that financial situation changes, the licensee, under NRC monitoring, would alter funding methods accordingly.

For the reasons presented in the discussion of issues raised, the NRC is issuing this final rule as proposed.

Finding of No Significant Environmental Impact: Availability

This final rule clarifies decommissioning funding arrangements for those licensees whose power reactors are shut down prematurely. This action is required so that the Commission may evaluate on a case-by-case basis the unique financial situation that could confront those licensees. The Commission would continue its requirements for assurance of decommissioning costs but could alter the timing of funds collection according to a licensee's individual financial situation. The Commission believes that if utility licensees were required to have all funds for decommissioning by the time of permanent shutdown as required by the existing rule, some utilities could be unnecessarily financially stressed without significantly increasing the protection of the public health and safety and of the environment.

Neither this action nor the alternative of maintaining the existing rule would significantly affect the environment. Although changes in the timing of collection of funds for decommissioning prematurely shut down power reactors may affect the financial arrangements of licensees and may have economic and social consequences, they would not alter the effect on the environment of the licensed activities considered in the final rule published on June 27, 1988 (53 FR 24018) as analyzed in the Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities (NUREG–0586, August 1988).[2] The alternative to this action would not significantly affect the environment. Therefore, the Commission has determined, under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this final rule will not be a major Federal action significantly affecting the quality of the human environment, and therefore an environmental impact statement is not required. No other agencies or persons were contacted for this action, and no other documents related to the environmental impact of this action exist. The foregoing constitutes the environmental assessment and finding of no significant impact for this final rule.

[2] Copies of NUREG–0586 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, D.C. 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) Existing requirements were approved by the Office of Management and Budget, approval number 3150–0011.

Regulatory Analysis

On June 27, 1988 (53 FR 24018), the NRC published in the Federal Register a final rule amending 10 CFR parts 30, 40, 50, 51, 70 and 72 regarding general requirements for decommissioning nuclear facilities. In that rule, the Commission provided the option that power reactor licensees may collect funds for decommissioning over the projected operating life of the facility but required that all funds needed for decommissioning be accumulated by the time of permanent shutdown. Under the existing rule, power reactor licensees that shut down prematurely would not have the remaining term of the operating license to accumulate decommissioning funds and could be unduly burdened financially if required to raise all remaining decommissioning funds shortly after shutdown. Consequently, the NRC will evaluate the schedule for collecting decommissioning funds for prematurely shut down facilities on a case-by-case basis. A case-by-case approach allows the NRC to evaluate the particular financial circumstances of each affected licensee while continuing to ensure that the public health and safety and the environment are adequately protected. This final rule would generally reduce financial costs for those licensees allowed to extend the collection period of decommissioning funds.

This final rule would not create substantial costs for other licensees. The rule will not signficantly affect state and local governments and geographical regions, or the environment, or create substantial costs to the NRC or other Federal agencies. The foregoing discussion constitutes the regulatory analysis for this final rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this final

rule will not have a significant impact upon a substantial number of small entities. The rule will potentially affect licensees of approximately 118 nuclear power reactors. Nuclear power plant licensees do not fall within the definition of small businesses as defined in Section 3 of the Small Business Act, 15 U.S.C. 632, the Small Business Size Standards of the Small Business Administration (13 CFR part 121), or the Commission's Size Standards (50 FR 50241; December 9, 1985).

Backfit Analysis

The NRC has determined that this final rule does not impose a backfit as defined in 10 CFR 50.109(a)(1). Therefore, a backfit analysis is not required for this rule.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalty, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201 as amended, 202, 206, 88 Stat. 1242 as amended 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187 68 Stat. 995 (42 U.S.C. 2237).

For the purposes of sec. 223, 66 Stat. 958, as amended (42 U.S.C. 2273); §§ 50.5, 50.46 (a) and (b), and 50.54(c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.5, 50.7(a), 50.10(a)-(c), 50.34 (a) and (e), 50.44(a)-(c), 50.46 (a) and (b), 50.47(b), 50.48 (a), (c), (d), and (e), 50.49(a), 50.54 (a), (i), (i),(1), (1)-(n), (p), (q), (t), (v), and (y), 50.55(f), 50.55a(a),(c)-(e), (g), and (h), 50.59(c), 50.60(a), 50.62(b), 50.64(b), 50.65, and 50.80 (a) and (b) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.49(d), (h), and (j), 50.54 (w), (z), (bb), (cc), and (dd), 50.55(e), 50.59(b), 50.61(b), 50.62(b), 50.70(a), 50.71 (a)-(c) and (e), 50.72(a), 50.73 (a) and (b), 50.74, 50.78, and 50.90 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 50.82 is amended by revising paragraph (a) to read as follows:

§ 50.82 Application for termination of license.

(a) Any licensee may apply to the Commission for authority to surrender a license voluntarily and to decommission its facility. For a facility that permanently ceases operation after July 27, 1988, this application must be made within two years following permanent cessation of operations, and in no case later than one year prior to expiration of the operating license. Each application for termination of license must be accompanied, or preceded, by a proposed decommissioning plan. For a facility which has permanently ceased operation prior to July 27, 1988, requirements for contents of the decommissioning plan as specified in paragraphs (b) through (d) of this section may be modified with approval of the Commission to reflect the fact that the decommissioning process has been initiated previously. For a facility which has permanently ceased operation before the expiration of its operating license, the collection period for any shortfall of funds will be determined, upon application by the licensee, on a case-by-case basis taking into account the specific financial situation of each licensee.

* * * * *

Dated at Rockville, Maryland this 26th day of June, 1992.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 92-16133 Filed 7-8-92; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R-0698]

RIN 7100-AB13

Bank Holding Companies and Change in Bank Control Investment Advisory Activities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is revising its interpretive rule regarding investment advisory activities of bank holding companies to provide expressly that a bank holding company or its nonbank subsidiary may act as an agent for customers in the brokerage of shares of an investment company advised by the holding company or any of its subsidiaries. In addition, the revision will provide that a bank holding company or its nonbank subsidiary may provide investment advice to customers regarding the purchase or sale of shares of an investment company advised by a holding company affiliate. In both instances, the Board requires certain disclosures to be made to address potential conflicts of interests or adverse effects.

EFFECTIVE DATE: August 10, 1992.

FOR FURTHER INFORMATION CONTACT: Scott G. Alvarez, Associate General Counsel (202/452-3583), or Thomas M. Corsi, Senior Attorney (202/452-3275), Legal Division; or Robert S. Plotkin, Assistant Director (202/452-2782), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

In 1971, the U.S. Supreme Court held that the operation of a mutual fund by a national bank was prohibited by the Glass-Steagall Act because it involved the bank in prohibited securities underwriting and distributing activities.[1] Subsequent to the Court's decision, the Board amended its Regulation Y to permit a bank holding company to furnish investment advice to an open-end investment company (*i.e.*, a mutual

[1] *Investment Company Institute* v. *Camp*, 401 U.S. 617 (1971).