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Federal Register

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Tuesday, June 26, 1984

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## Presidential Documents

Title 3—

Executive Order 12482 of June 21, 1984

The President

President's Advisory Committee on Women's Business Ownership

By the authority vested in me as President by the Constitution of the United States of America, and in order to extend the life of the President's Advisory Committee on Women's Business Ownership, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered that Executive Order No. 12426 of June 22, 1983, is amended as follows:

- (a) Section 2(a) is amended by striking "foster" and inserting in lieu thereof "study methods of obtaining".
- (b) Section 4(b) shall read: "The Committee shall terminate on December 31, 1984, unless sooner extended."

*Ronald Reagan*

THE WHITE HOUSE,

*June 21, 1984.*

[FR Doc. 84-17116

Filed 6-22-84: 4:19 pm]

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## Presidential Documents

### Proclamation 5214 of June 22, 1984

### Helen Keller Deaf-Blind Awareness Week, 1984

By the President of the United States of America

#### A Proclamation

Our eyes and ears provide vital ways of interacting with the world around us. The lilt of laughter, the beat of a brass band, the smile of a friend, and the poetry of a landscape are but a few of the life blessings that our senses of sight and hearing help us to enjoy. But for some 40,000 Americans who can neither see nor hear, the world can be a prison of darkness and silence.

Inadequate education, training, and rehabilitation for those who are deaf and blind may prevent these Americans from becoming independent and self-sufficient, thereby greatly limiting their life potential and imposing a high economic and social cost on the Nation.

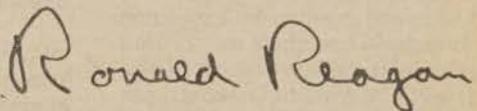
We must prevent such problems among our deaf-blind citizens by fostering their independence, creating employment opportunities, and encouraging their contributions to our society. Crucial to fulfilling this urgent national need is research on the disorders that cause deafness and blindness. Toward this end, the National Institute of Neurological and Communicative Disorders and Stroke and the National Eye Institute as well as a number of voluntary health agencies are supporting a wide range of investigative projects that one day may provide the clues to curing and preventing these devastating disorders.

On June 27 we commemorate the 104th anniversary of the birth of Helen Keller, America's most renowned and respected deaf-blind person. Her accomplishments serve as a beacon of courage and hope for our Nation, symbolizing what deaf-blind people can achieve.

In order to encourage public recognition of and compassion for the complex problems caused by deaf-blindness and to emphasize the potential contribution of deaf-blind persons to our Nation, the Congress, by Senate Joint Resolution 261, has authorized and requested the President to issue a proclamation designating the last week in June 1984 as "Helen Keller Deaf-Blind Awareness Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning June 24, 1984, as Helen Keller Deaf-Blind Awareness Week. I call upon all government agencies, health organizations, communications media, and people of the United States to observe this week with appropriate ceremonies and activities.

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



and the South, the South is the only one that has been able to do this.

Mr. J. C. Calhoun's speech on the nullification of the tariff.

Mr. Calhoun's speech on the nullification of the tariff.

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# Rules and Regulations

Federal Register

Vol. 49, No. 124

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

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

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Part 245

#### Verification of Eligibility for Free and Reduced Price Meals in Schools

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule establishes the Department's requirements for verification of eligibility for free and reduced price meals in schools for School Year 1984-85 and subsequent school years. This final rule: (1) Allows the use of an alternate verification method which utilizes a smaller sample of applications and focuses on those applications more likely to contain errors; (2) Simplifies the application process for schools and food stamp households by allowing such households to submit their Food Stamp Program case number in lieu of income information on the application; (3) Requires other households to submit additional income information on the application for free and reduced price meals; (4) Requires that households selected for verification receive written notice; (5) Requires that verification activity be completed by each School Food Authority by December 15 of each school year. This final rule is intended to facilitate the certification process, to reduce program abuse, and to result in an additional savings of Federal funds.

**EFFECTIVE DATE:** July 26, 1984.

**FOR FURTHER INFORMATION CONTACT:** Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302, (703) 756-3620.

#### SUPPLEMENTARY INFORMATION:

##### Classification

This final rule has been reviewed under Executive Order 12291 and has been classified not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of \$100 million or more, nor will it result in a major increase in costs or prices for program participants, individual industries, Federal agencies, or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. This final rule will decrease administrative costs by providing States, School Food Authorities, and institutions more flexibility in administering the National School Lunch and School Breakfast Programs.

This final rule has also been reviewed with regard to the requirements of Pub. L. 96-354, the Regulatory Flexibility Act. The Administrator of the Food and Nutrition Service (FNS) has certified that this final rule will not have a significant economic impact on a substantial number of small entities. The Department believes that the provisions of this final rule will simplify the application process and will facilitate the verification process for State and local administrators of these programs. Discussions in the preamble will explain this in detail. This final rule imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3587).

##### Background

In the report entitled, "National Statistical Sample of Program Participation for May 1980 and Verification of Free and Reduced Price Application Information," the Office of Inspector General (OIG) estimated that one of every four recipients of free and reduced price school meals was receiving these benefits improperly. In response to these findings, in August of 1981 Congress expressed its concern in three provisions of Pub. L. 97-35. Section 803(a)(2) of that legislation stated that "The Secretary, States, and local school food authorities may seek verification of

the data contained in the application." Congress struck the previous restrictions which required a "cause" for verification.

Section 803(a)(2) also provided that "Local school food authorities shall undertake such verification of the information contained in these applications as the Secretary may by regulation prescribe." \* \* \* Therefore, the Department believed that it was necessary to establish a verification requirement as soon as was practicable to minimize quickly the misuse of Federal funds. The Department first established mandatory minimum verification requirements in an interim rule on verification published on March 25, 1983. This interim rule was developed in response to the increasing Congressional concern regarding abuse in federally-supported school meal programs. The interim rule encouraged School Food Authorities to verify a minimum of the lesser of three percent or 3,000 of the approved free and reduced price applications on file as of October 31 of School Year 1982-83. The interim rule also made this minimum verification requirement mandatory for subsequent school years.

Section 803(a)(3) of Pub. L. 97-35 further directed the Secretary to conduct a pilot study of verification procedures designed to reduce fraud and abuse in the federally-supported school nutrition programs. Phase II of the Income Verification Pilot Project (hereinafter called the verification study) involved a large-scale nationally representative test of a variety of quality assurance procedures conducted in 114 School Food Authorities during the 1982-83 School Year. Unless noted otherwise, page citations in this preamble to the "verification study" refer to the report entitled, "Income Verification Pilot Project, Phase II, Results of Quality Assurance Evaluation, 1982-83 School Year, April 1984."

Minimum verification requirements were therefore established for School Year 1983-84 by interim rule, rather than a final rule, to enable the Department to consider final changes based on the verification study and comments from administrators and households with experience. On March 30, 1984, the Department published a proposed rule (49 FR 12942) which would modify the verification requirements and offer School Food Authorities an alternate or

"focused" method of verification. Those modifications and alternate method of verification were based on: (1) The comments received on the interim rule on verification published on March 25, 1983 (48 FR 12505); and (2) the results of the verification study. A 30-day comment period was provided during which time the Department received 268 comments. Commentors included State educational personnel, School Food Authority personnel, private citizens, advocacy groups, and professional organizations. The Department would like to thank all commentors who responded to the proposed rule.

#### Comment Analysis

The Department has made every effort to incorporate into this final rule all commentor suggestions which clarify or improve verification procedures and yet are consistent with the objectives of the verification requirement. The remainder of this preamble will discuss the significant changes that have been made in the Department's regulations on eligibility determinations and verification. Commentor concerns and suggestions are categorized by subject and addressed throughout this preamble.

#### General Comments on the Proposed Rule

Fifty-three commentors expressed concerns that verification has, in their experience, not proven to be cost-effective at the local level. These commentors believe that the increased costs of paperwork and staff resources devoted to verification exceed any consequent savings of Federal funds. While the Department recognizes that there are additional responsibilities associated with verification requirements, the Department believes that several provisions of this final rule offer School Food Authorities significant relief.

Most importantly, this final rule provides that households currently receiving food stamp benefits may substitute their food stamp case number for income information on the application. Since food stamp households constitute approximately one-half of those households which submit applications for school meal benefits, there should be a significant reduction in the time required to review and approve those applications. The most difficult and time-consuming aspect of application review and approval is associated with the income calculation necessary for each household. Now this process will not be necessary for applicants who substitute a food stamp case number for income

information. Instead, School Food Authorities may rely on the certification previously performed by local food stamp offices for such applicants, thereby reducing the time needed for application approval.

Secondly, this final rule offers School Food Authorities an alternative method of application selection which permits fewer verifications. If applications to be verified are selected from those more likely to contain errors (focused sampling), School Food Authorities need verify less than half as many applications as required by the interim rule. This alternative should substantially reduce the administrative burden associated with verification. The Department's information on national program participation rates as applied to School Food Authorities categorized by enrollment size provides the following: For more than 50 percent of all School Food Authorities only an average of two applications containing income information and one application substituting a food stamp case number would need to be verified using the focused method. Although these average numbers will vary in individual School Food Authorities depending upon their free and reduced price participation rates, the Department wishes to emphasize that it believes that an average of three verifications for more than half of all School Food Authorities is a reasonable and proportionate requirement. Further, less than one percent of all School Food Authorities will be required to verify the maximum of 1,000 applications containing income information and 500 applications substituting a food stamp case number using the focused method of 3,000 applications using the random method.

Third, the Department believes that those commentors suggesting that verification costs exceed the cost savings directly achieved by verification efforts are not considering the deterrent effect to misreporting caused by verification when accompanied by an improved application form. The verification study suggests that significant and worthwhile improvements in overall program integrity are likely to occur even with a limited verification system which focuses on deterrence rather than detection. The Department believes that the maintenance of an improved verification system is essential given the degree of program abuse cited by OIG and by the verification study. Improvements identified by the verification study and contained in the proposed rule were an application form which requested income information by

source and household member, and a verification alternative which focused on those applications more likely to contain errors. Both of these provisions have been retained in this final rule and are discussed in detail later in this preamble.

Although the Department has attempted to reduce the cost of verification by the changes made in this final rule, the Department believes that a minimal level of verification activity must be maintained. Many, if not all, administrative requirements associated with these programs place responsibilities directly on local School Food Authorities. These requirements often result in no cost savings to the School Food Authority nor is there any specific reimbursement designated to cover their cost. The Department believes that verification activity, like other required functions, is fundamental to the maintenance of program integrity. In this final rule the Department has attempted to strike a balance between the concerns expressed by commentors over increased cost and staff involvement needed for verification and the need to reduce program abuse. The long-term consequence of failure to correct clearly identified deficiencies is diminished public support for these vital programs. Corrective actions, as provided by this final rule, will help to preserve the base of good will essential to the continued operation of these programs. Although the Department has emphasized a strategy of deterrence of program abuse based on an improved application, it must also maintain a minimum degree of verification activity to maintain public awareness that each application could be selected for verification, thus preserving the deterrent effect over time. Therefore, the Department continues to require minimal verification activity in this final rule.

Nine commentors suggested that application and verification activities be made the responsibility of local food stamp or welfare offices more familiar with this type of activity. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) specified that responsibility for verification was to be assumed by States and School Food Authorities. The Department has no legal authority to place this responsibility elsewhere.

Approximately 30 commentors suggested that households be required to submit income documentation at the time of application to expedite the verification process. The Department has serious concerns regarding the potential barrier to eligible applicants of such a requirement. This barrier effect

was clearly identified by the verification study which found that a requirement that income documentation be submitted at the time of application constituted a barrier to eligible households while providing little improvement in the deterrent effect provided by the improved application alone. The Department believes that due to this barrier effect this final rule should not be changed to permit documentation at the time of application. Although the Department recognizes the need and desire of School Food Authorities to complete verification in a timely manner, the Department has a responsibility to ensure that eligible households not be discouraged from applying. Therefore, this final rule will not be modified to permit income documentation at the time of application. Since verification is defined as confirming the eligibility for free and reduced price benefits, it is necessary that eligibility be established prior to the initiation of verification activity. Therefore, this final rule precludes verification activity prior to the establishment of eligibility.

Two commentors suggested that the Department require that verification be performed for all households which reapply after termination due to verification. The Department wishes to emphasize that School Food Authorities may always elect to perform additional verification activity beyond that required by this final rule. The Department believes that the judgment of local School Food Authorities can best determine the necessity of additional verification activity on an individual basis when households reapply after termination. While the Department would support the judgment of a School Food Authority which decided to verify applications submitted under these circumstances, it will not impose this requirement on School Food Authorities in this final rule since there may be individual circumstances where the School Food Authority judges that such verification activity is not warranted.

Approximately 50 commentors objected to the date of October 15 specified in the proposed rule for determining the number of applications to be verified and over 25 commentors supported this date. The commentors objecting to this date believed that using October 15 as the date to determine the required number of verifications would require School Food Authorities to review all applications twice in October since School Food Authorities are required to provide the number of children eligible for free and reduced

price meals at the end of October for a separate report. Therefore, the Department has, in this final rule, made October 31 of each school year the date to be used to determine the number of applications to be verified based on the number of applications on file on that date in each School Food Authority. Some commentors did not realize that schools may begin verification efforts prior to October 31 based on projected approvals.

Approximately 160 commentors objected to the date of November 15 specified in the proposed rule for completion of verification activity and over 25 commentors supported this date. Those opposing this date believed it to be unreasonable for several reasons. Such commentors believed that other required activities at the beginning of the school year would interfere with verification activity and that the process of verification itself was so time-consuming that completion by November 15 would be difficult, if not impossible. Many of these commentors apparently were among those who believed that School Food Authorities could not begin verification activity until the date specified (October 15 in the proposed rule) to determine the number of applications to be verified. The Department wishes to emphasize that verification activity may begin as soon as the School Food Authority deems appropriate. However, the Department recognizes that there are many obligations imposed on School Food Authorities at the beginning of each school year and has therefore changed the date by which verification activity is to be completed to December 15 of each school year.

Thirteen commentors believed that verification itself represented a barrier to participation by eligible households. While the Department recognizes that there may be some barrier to participation present in any method used to prevent program abuse, the Department also recognizes that the necessity to reduce abuse makes the minimal verification requirement imposed by this final rule reasonable and equitable. In this final rule, the Department offers School Food Authorities the option to conduct less than one-half the number of verifications previously required. This rule provides for minimal verification activity, coupled with the streamlined application process for food stamp households, which together should significantly reduce any barrier to participation for eligible households while maintaining an effective deterrent

to misrepresentation of household income or circumstances.

Approximately 35 commentors supported the elimination of the Special Milk Program from the verification requirements of this final rule, while 4 commentors opposed this change as discriminatory. The Department continues to believe, along with the majority of commentors addressing this issue, that the low value of program benefits received in the Special Milk Program for Children (Part 215) does not justify the administrative costs associated with verification. Therefore, this final rule eliminates the Special Milk Program from the minimum verification requirements imposed by this rule.

Over 30 commentors suggested one or more of the following: Exempt certain types of School Food Authorities from verification requirements; reduce the verification requirement to less frequent than annually; make verification optional; or reduce the number of verifications required to a fraction of one percent of total applications on file. The Department is of the opinion that the verification activity required by this final rule is the minimum amount necessary to maintain an effective level of deterrence. The verification study found that the deterrent effect established by the improved application required by this final rule caused a significant reduction in misreporting. However, the verification study also suggested that it was necessary to maintain a minimal level of detection activity (verification) to preserve this deterrent effect. Therefore, the Department has decided to offer two alternative methods of verification to School Food Authorities which are both designed to maintain this minimum level of detection activity.

The random method offered to School Food Authorities is based on verification of 3 percent of approved applications on file. This method requires a higher level of verification activity since selection of the applications to be verified is not based on procedures designed to identify those applications more likely to contain errors. This method maintains the level of verification activity required by the interim rule. Since many School Food Authorities and State agencies have indicated that they were reluctant to change verification systems already established, the Department is offering the random method to permit continuity in verification activity in these School Food Authorities.

The focused method of verification offers a significant reduction in the

number of verifications required. By focusing on those applications more likely to contain errors, the Department has reduced the number of verifications required to a minimum level. School Food Authorities using this method need verify only 1 percent of all applications on file, plus one-half of 1 percent of those applications which provided a food stamp case number instead of income information. The Department believes that this level of verification is the minimum necessary to preserve an effective deterrence to program abuse. This verification activity, when combined with the improved application form required by this final rule, should result in significant improvements in program integrity and administration.

It should be noted that the Department has previously established exemptions from verification requirements in § 245.6a(A)(5). These exempted entities include residential child care institutions, schools in which FNS has approved special cash assistance claims based on economic statistics regarding per capita income, schools in which all children are served with no separate charge for food service and no special cash assistance is claimed, and in some years, schools which participate in the Special Assistance Certification and Reimbursement Alternatives. Therefore, the Department has determined that no further reduction in verification activity is possible in this final rule.

Approximately 20 commentors suggested that the Department mandate higher levels of verification activity up to 100 percent of total applications on file. The Department wishes to emphasize that additional verification activity is left to the discretion of State agencies and School Food Authorities. The Department has established the minimum verification requirements in this final rule to impose as small a burden as possible on School Food Authorities and still maintain an effective level of deterrence. The Department will not mandate additional activity in the final rule but recommends it if a State agency or School Food Authority deems it advisable to improve program integrity.

Several commentors suggested that State agencies rather than FNS have authority to grant extensions for completion of verification activity by School Food Authorities. The Department believes that it is necessary to keep this discretion with FNS to ensure, to the extent possible, consistent standards of verification activity on a national basis.

#### Improved Application

Based on findings of the verification study, the proposed rule suggested improvements to the application for free and reduced price meals. These changes require that households submit total household income identified by source of income for each household member. The verification study found that this type of application significantly reduced income misreporting by households and would make a sizeable contribution to program integrity if used on a national basis. The verification study found that the improved application resulted in only 3 percent of totally ineligible applicants receiving free and reduced price benefits (verification study page 87). This verified error rate is contrasted with comparable error rates over 3 times as great in studies where the improved application was not utilized (verification study page 42). In effect, the improved application is best at deterring the most serious types of misreporting. Approximately 40 commentors stated that they believed that this type of application would represent a barrier to participation by many eligible households. Approximately 45 commentors, many with practical experience using an application of this type, supported its use. In addition to establishing that the improved application achieved a significant reduction in misreporting, the study produced no evidence that the improved application adversely affected the participation of eligible individuals. Further, the verification study reported that 86 percent of a sample of the households interviewed after completing the application were not concerned about reporting detailed income information for each adult member.

Additionally, this rule provides that food stamp households may, at their option, substitute their food stamp case number for income information. Since food stamp households represent a substantial portion of the children served in these programs, the substitution of a food stamp case number for income information should help assure that no participation barrier exists for those households.

Several commentors stated that the Department has not provided enough information concerning the verification study to enable commentors to submit fully informed comments. The Department made every reasonable effort to provide the verification study to all interested persons and organizations. The Department released the verification study to the public on April 1, 1984. The study was widely disseminated and was available to all

individuals or organizations which requested copies. As appropriate, the Department has utilized findings of the verification study as the proposed rule and this preamble clearly state. The Department attempted to place the verification study on public display at the Office of the Federal Register but was informed that the study did not meet the legal standards specified for the display of public documents.

One commentator re-emphasized a point initially raised in the verification study about the *degree* to which evidence supports the findings that the improved application reduced errors. The verification study indicates that no definitive estimate of the *magnitude* of error reduction can be safely made because of the lack of a formal control group (page 81). However, the verification study findings unambiguously point out that there is overwhelming evidence to indicate that the improved application significantly reduces error. The Department's decision to recommend use of the application, therefore, was based on its demonstrated error-reducing capabilities, not the precise degree of error reduction which may actually be achieved.

Section 245.6(c) contains a provision allowing School Food Authorities to complete and file an application for needy families which fail to apply. This application should be completed using the best income and family size information available to the school. One commentator suggested that this procedure be codified in this final rule. The Department wishes to point out that this procedure has been in Part 245 for many years and has not been changed by either the proposed or this final rule.

Approximately 50 commenters believed that an application of the type required in this final rule would impose a significant increase in the time and staff needed by School Food Authorities to review and approve applications. Approximately 45 commenters, many representing School Food Authorities using applications of this type, supported the proposal to utilize this type of application. While the verification study did find that there was a marginal increase in time needed to process the application used in the study, other provisions of this final rule serve to mitigate this potential burden. It should be noted that the application used in the verification study was considerably more extensive in both information collection and in actual size than the application required by this final rule (verification study appendix A). The Department has utilized only

those features of the verification study application which give evidence of deterring program abuse. As a result, the recommended application gathers household income by source and household member. Since several other items on the verification study application are not required by this final rule, the Department does not expect any overall increase in processing time or cost associated with the improved application required by this final rule. The Department's reasoning for this conclusion is explained in detail later in the preamble.

In this final rule, the Department is also permitting food stamp households to substitute their food stamp case number for income information on the application for free and reduced price meals. Since food stamp households account for approximately one-half of all applicants for school meal benefits nationwide, this provision should substantially reduce the workload associated with application processing, especially in those School Food Authorities located in low-income areas with a high percentage of free benefit households, most of which are receiving food stamps. Applications which contain a food stamp case number instead of income will require no income review by the School Food Authority. Instead, School Food Authorities will, if the application meets all other requirements, automatically approve the children for free meals. Since the income determination is the most time-consuming component of application processing, this final rule offers significant administrative relief to many School Food Authorities.

One commenter suggested that it could cost School Food Authorities over \$20 million per year to process an improved application. It should be noted that this estimation was based on an average additional cost of \$1.50 above prior years application processing costs, as suggested by the verification study, multiplied by an estimated 15 million applications for free and reduced price meals submitted annually. Although the verification study did estimate that an additional \$1.50 was needed to process the verification study application, this estimated increase in cost may not reasonably be applied to the application required by this final rule (verification study page 79). The application required by this final rule is significantly less burdensome than the application utilized during the verification study. The application required by this final rule requires less information and will be simpler to process. Further, the verification study points out that even if

there were a slight cost increment for processing a new kind of application, such processing costs are likely to diminish in time as School Food Authorities become more familiar with the improved form.

The Department estimates that initially the improved application form and the lack of familiarity with processing of this form may produce an increase in processing costs for nonfood stamp households. However, the income exemption for food stamp households in this final rule will provide a reduction in application processing costs which will more than compensate most School Food Authorities. Approximately one-half of all applicants for school meal benefits are from households which also receive food stamps and these households will not be required to provide income information on the application. The expedited processing of applications from food stamp households will more than compensate most schools for the time spent on both the improved application and the entire verification process, regardless of which verification method is selected by the school.

Additional cost savings result from the focused sampling and verification method offered by this final rule which requires less than one-half as many verifications as required by the interim rule. The Department cannot accurately project cost savings in this area because they are dependent on the number of School Food Authorities selecting this focused method of verification. However, the Department anticipates significant cost savings for large School Food Authorities selecting this method.

#### Verification Methods

The proposed rule offered two alternative methods of verification to School Food Authorities. The "random" sampling method required that School Food Authorities verify the lesser of 3 percent or 3,000 of the approved free and reduced price applications. The "focused" verification method specified that School Food Authorities were required to select and verify: (1) The lesser of 1 percent or 1,000 of total applications, selected from non-food stamp households claiming monthly income within \$100 or yearly income with \$1200 of the income eligibility limit for free or reduced price meals; plus (2) the lesser of one-half of 1 percent (.5%) or 500 applications of food stamp households that provided food stamp case numbers in lieu of income information.

Approximately 70 commentors generally supported the availability of an alternative verification method.

Although some of these commentors stated that they preferred one verification method over another for a variety of reasons, their comments supported the flexibility offered by the proposed rule. Commentors expressing opposition to verification in general have been addressed previously in this preamble.

Fourteen commentors stated that they opposed use of the focused verification method because they believed it to be discriminatory to a certain group of households. It is worth noting that the focused method relies only on income information provided by the household and does not discriminate with respect to race, color, handicap, national origin, sex or age. This focused approach is based on statistical formulas which distinguish applications likely to result in an excess benefit reward.

Some commentors believed that households verified under this method would be likely to be singled out year after year as subjects of verification activity. The Department has not specified in this final rule the procedures to be used by School Food Authorities to select individual applications for verification from the group of applications claiming monthly income near the income eligibility limit for free and reduced price meals. The Department strongly recommends that School Food Authorities not verify the same applicant household in consecutive years if that household has been the subject of a previous verification which confirmed eligibility.

It should be noted that the verification study provides clear support for focusing verification activity (page 64, 91). Further, Phase I of the Income Verification Pilot Project demonstrated that use of an error-prone model similar to that used in this final rule was four times more likely to identify persons receiving excess benefits than use of random-sampling procedures ("Income Verification Pilot Project (IVPP), the Development Of An Error-Prone Model For School Meal Programs, Revised August, 1983", page 3). Further, this type of focused monitoring has been used by other Federal programs, such as the Food Stamp Program, for many years and has proved to be most effective in concentrating limited monitoring resources where necessary.

The Department does not believe that focused verification is discriminatory and believes further that the number of verifications required is so minimal that it is unlikely that any one household will receive disproportionate attention year after year. More importantly, the Department is confident that school

officials have the ability and desire to devise a selection method that is equitable to the families in their communities. School officials submitting comments are representative of school officials nationwide and all seemed very concerned about protecting parent-educator relationships.

Approximately 40 commentors stated that they believed the selection process for the focused verification method would be so time-consuming in certain School Food Authorities that the time needed would exceed that saved by performing fewer verifications. The Department has retained the random method of verification as an option for those School Food Authorities which believe that focused verification is unsuitable for their local circumstances. However, the Department does not believe that the selection process using the focused method will be time-consuming. Many of these commentors seemed to believe that School Food Authorities must randomly select applications to be verified using the focused method from all applications with monthly income within \$100 or yearly income within \$1200 of the income eligibility limit for free or reduced price meals. This would require that School Food Authorities wait until all such applications have been received and classified prior to proceeding with any verification activity.

The Department wishes to emphasize that School Food Authorities may verify any application after approval which falls within the income limits for focused verification. Since most School Food Authorities can, based on the experience of prior years, accurately estimate the minimum number of total verifications which will be required to meet the requirements of the focused method, verification activity can commence as soon as those applications are approved. It is not necessary to categorize all applications to meet the requirements of focused verification.

However, these commentors also point out that the requirement to verify the lesser of one-half percent (.5%) or 500 of applications which substitute a food stamp case number in lieu of income information does require that all applications of this type be identified before the minimum number to be verified is known. This will be true of the first year until a pattern is established. In subsequent years schools should have the experience to accurately estimate the number of verifications required. Schools wishing to get an early start in the first year may start verification of food stamp households based on their best

estimates. In any event, those School Food Authorities which believe that the focused method presents practical difficulties due to local circumstances may, of course, utilize the random method although it has a higher number of required verifications.

Six commentors stated that they believe that State agencies should be able to determine which verification method is most suitable on a statewide basis. These commentors argue that this would simplify State agency training and monitoring efforts. The Department agrees with these commentors that administrative efficiencies could result when one method is mandated on a statewide basis. In addition, providing this authority to State agencies would be consistent with general practice in these programs. The Department has, as a general rule, always permitted State agencies to establish statewide policy if consistent with Federal requirements. Therefore, the Department has provided in this final rule that a State agency may require that all School Food Authorities within that State perform one method of verification; i.e. random or focused. Of course, additional verification activity may be performed at local discretion.

Four commentors suggested that focused verification does not address certain types of applications which they consider to be more likely to misreport income. Examples cited include households which report "zero" income or those households terminated due to verification in previous years. The verification study did not find that these kinds of applications were especially likely to contain errors and, therefore, has not focused verification activity on these households. However, the Department wishes to emphasize that the verification requirements of this rule are *minimum* requirements and that additional verification activity may be conducted up to and including 100% of all applications as deemed appropriate by the School Food Authority. As stated previously, the Department endorses verification efforts which enhance program integrity.

#### Clarification of Sample Selection Process

Approximately 40 commentors requested clarification of the procedures to be used to select applications for verification using the focused method. The number of applications which must be verified is based on the applications on file as of October 31 of each school year. However, verification activity may begin prior to that date since October 31 is used only to determine the minimum number of verifications needed. School Food Authorities using the *focused*

method must verify the lesser of 1 percent or 1000 of *total* approved applications. Total applications means all non-food stamp and food stamp applications. The School Food Authority must arrive at this total number, determine what one percent of this total is, and then select that number of applications from non-food stamp households with income near the eligibility limits (with monthly income within \$100 or yearly income within \$1200 of the income eligibility limits for free and reduced price meals). In addition, School Food Authorities must verify the lesser of one-half percent (.5%) or 500 of those applications which substitute a food stamp case number for income information. The number of these verifications required is based on the number of applications which substitute a food stamp case number for income information, not the total number of applications on file with the School Food Authority.

*Example*—Focused Sampling could be accomplished as follows using, for this example, a School Food Authority with 900 approved applications which includes 600 food stamp households.

1. Count *all* approved applications, including food stamp households, to determine the number required to fill the 1% non-food stamp sample size. (1%  $\times$  900 = 9)

2. Separate applications into two groups, non-food stamp and food stamp households.

3. From the non-food stamp group select the sample of households (9) that report income within \$100 monthly or \$1200 yearly below the income eligibility limit for free or reduced price meals and proceed to verify their income.

4. From the food stamp group determine the number required to fill the .5% sample size. (.5%  $\times$  600 = 3)

5. Submit a list of the selected names (3) and case numbers to the food stamp office for confirmation of current receipt of food stamps or request a current "Notice of Eligibility" from the household.

#### Food Stamp Households

The proposed rule contained several provisions designed to expedite the certification and verification procedures for food stamp households. The proposed rule would permit food stamp households to substitute their food stamp case number in lieu of income information on the free and reduced price applications. School Food Authorities receiving such applications would be able to determine eligibility without evaluating income information. Approximately 60 commentors

supported this provision. These commentors believed that this provision would eliminate duplication of verification effort already accomplished by the food stamp office and would expedite the application approval process. Eleven commentors opposed this provision on the grounds that it treated food stamp households differently than other households. The Department wishes to emphasize that the substitution of food stamp numbers instead of income information is a voluntary act by the household. No School Food Authority or State agency may require that a food stamp case number be given by the household. Further, the Department does not believe that this provision treats food stamp households differently. These households must have their income verified to participate in the Food Stamp Program. By allowing food stamp households to substitute their food stamp case number for income information, the Department is permitting these households to avoid a duplicative process. Eight commentors opposed this provision because they believed that the potential for misuse of the food stamp case number of verification information obtained from the food stamp office outweighed any benefits. The Department wishes to emphasize that the use of food stamp case numbers is specifically restricted in this final rule. This final rule provides that food stamp case numbers are to be used only: (1) In lieu of income information in the free and reduced price application and (2) to verify current receipt of food stamp program benefits by the applicant household. No other uses are permitted in this final rule. The Department does not believe that it is necessary to impose any additional restrictions on the use of food stamp case numbers or food stamp participation information since their use is already clearly specified.

The second major provision of the proposed rule affecting food stamp households would provide an expedited method of verification for those households. The proposed rule would permit School Food Authorities to verify applications which contained a food stamp number instead of income information in one of two ways. School Food Authorities could opt to verify those applications by either confirming with the local food stamp office that the household is currently receiving Food Stamp Program benefits or by obtaining a copy of a current "Notice of Eligibility" for Food Stamp Program benefits from the household. Fourteen commentors suggested that difficulties

in working with local food stamp offices may delay timely completion of these verifications. The Department recognizes that verification of these households is contingent on the cooperation of local food stamp offices and will encourage such offices to expedite this verification activity.

Several commentors stated that the "Notice of Eligibility" may not always be available from the household to confirm current food stamp status or that another document is more commonly used in their area. The Department wishes to emphasize that the "Notice of Eligibility" is the document issued to the food stamp household periodically and which states the period of eligibility for food stamp benefits. If School Food Authorities elect to accept another document as a substitute for the "Notice of Eligibility" it should clearly establish the *current* receipt by that household of food stamp benefits. The Authorization to Participate (ATP) document is usually issued monthly and is exchanged by the household at a bank or other issuance site for the actual food stamps. The ATP Card may serve to establish current receipt of food stamps by the household. However, the Food Stamp Identification Card by itself is not sufficient since it is issued at the time of initial certification, does not usually contain an expiration date, *does not* establish current participation in the Food Stamp Program and is usually retained by the household after participation in the Food Stamp Program has ended. The language of § 245.6a(a)(3) has been changed from that of the proposal to provide that School Food Authorities may accept from households selected for verification other official documentation issued by the food stamp office which establishes current participation in the Food Stamp Program.

Several commentors pointed out that the provisions in § 245.6a(a)(3) concerning adverse notice for food stamp households provide those households with a substantially longer period of time in which they may continue to participate in the program than non-food stamp households after verification fails to establish eligibility. After review, the Department believes these commentors to be correct. The provision, as proposed, permitted food stamp households to submit income information along with documentation when it was established that the household was not currently receiving food stamps. Only when the household failed to provide this information or when the information did not establish eligibility was the food stamp household

notified that their benefits would be terminated. Non-food stamp households, on the other hand, are immediately notified that their benefits will be terminated after verification establishes that the household is not eligible. Therefore, the Department is changing this provision so that when current participation in the Food Stamp Program cannot be established for a household which used a food stamp case number instead of income information, the household will be provided with a notice that benefits will be terminated within 10 days, unless the household submits income information and documentation establishing eligibility for free or reduced price meal benefits. All other requirements of § 245.6a(e) dealing with adverse action shall apply. This change ensures that both food stamp and non-food stamp households are given 10 days notice prior to a reduction or termination of benefits.

#### Notice of Verification

The proposed rule required that School Food Authorities provide written notice of verification to those households selected for verification. This requirement applies to all verification activity except that utilizing a system of records. Seven commentors opposed this rule arguing that this required additional paperwork and was not needed. Approximately 40 commentors supported this provision believing that it offered protection to the household being verified. The Department has retained this provision in the final rule. The Department believes that written notification will best serve to protect the interests of all involved. The Department wishes to point out however that this notice need not be separate from other written correspondence and may be a part of other notices supplied to the household.

#### Clarifications

Several commentors suggested that the language found at § 245.6a(a) has changed from that found in the interim rule so that the Department is imposing verification requirements directly on School Food Authorities. The Department inadvertently changed this language in the proposal and shares the concerns of those commentors. This final rule will therefore specify that  
 \* \* \* State agencies shall ensure that  
 \* \* \* School Food Authorities \* \* \*  
 One commentor pointed out that the language in § 245.6(a) was inconsistent since it contained references to both families and households. The Department shares the concerns of this commentor and has removed all

references to family in this section and has used the term household exclusively. One commenter stated that the definition of verification found at § 245.2(k) was confusing and did not clearly establish the extent of permissible verification activity. After review, the Department agrees with this commentator and has modified the definition of verification to more closely follow the language of the National School Lunch Act, § 245.2(a-3) and § 245.6(b). The definition has been changed in this final rule to be consistent with the sentence in the Act which states in § 9(b)(2)(c) that "The Secretary, States and local school food authorities may seek verification of the data contained in the application." Therefore, in this final rule "verification" means confirmation of eligibility for free or reduced price benefits under the National School Lunch program or School Breakfast Program. Verification shall include confirmation of income eligibility or current participation in the Food Stamp Program. At State or local discretion verification may also include confirmation of any other information on the application which is defined as documentation at § 245.2(a-3). The Department believes that the definition of verification provided in the proposed rule was effectively the same. However, the Department also believes that the definition of verification provided by this final rule does more closely conform to the statutory and regulatory provisions discussed above. Several other nonsubstantive changes were made to clarify the regulations.

Further explanations and history on the application and verification process in schools and the first phase of the verification study may be found in the preambles of the previously published proposed and interim rules cited earlier in this preamble and are incorporated by reference.

#### List of Subjects in 7 CFR Part 245

Food assistance programs, Grant programs—Social programs, National School Lunch Program, School Breakfast Program, Special Milk Program, Reporting and recordkeeping requirements.

#### PART 245—DETERMINATION OF ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

Accordingly, Part 245 is amended as follows:

1. In § 245.2, paragraphs (a-3) and (k) are revised as follows:

#### § 245.2 Definitions.

(a-3) "Documentation" means the completion of the following information on a free and reduced price application: (1) Names of all household members; (2) social security number of each adult household member or an indication that a household member does not possess one; (3) household income received by each household member, identified by source of income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, and social security) and total household income; or in lieu of income information, the Food Stamp Program case number for those households currently receiving food stamps; and (4) signature of an adult member of the household.

(k) "Verification" means confirmation of eligibility for free or reduced price benefits under the National School Lunch Program or School Breakfast Program. Verification shall include confirmation of income eligibility or current participation in the Food Stamp Program. At State or local discretion verification may also include confirmation of any other information in the application which is defined as documentation in § 245.2(a-3).

2. In § 245.5, paragraph (a)(1)(iii) is revised; paragraphs (a)(1)(iv) through (x) are redesignated as paragraphs (a)(1)(v) through (xi); and a new paragraph (a)(1)(iv) is added. The revision and addition read as follows:

#### § 245.5 Public announcement of the eligibility criteria.

(a) \* \* \*

(1) \* \* \*

(iii) An explanation that an application for free or reduced price benefits cannot be approved unless it contains complete documentation of eligibility information including names of all household members, social security numbers of all adult household members or an indication that a household member does not possess one, total household income and the amount and source of income received by each household member, and the signature of an adult household member;

(iv) an explanation that households currently receiving food stamps may submit their Food Stamp Program case number instead of income information;

3. In § 245.6:

a. Introductory paragraph text of (a) is amended by revising the third sentence; and by adding one sentence after the fourth sentence;

b. Paragraph (a)(1) is amended by adding the words "contacting a Food Stamp Office to determine current receipt of food stamps," between the words "determine income," and "contacting the State" in the fifth sentence;

c. Paragraph (a)(2) is amended by removing the third sentence; and

d. Paragraph (d) is removed.

The revision and addition read as follows:

#### § 245.6 Application for free and reduced price meals and free milk.

(a) \* \* \* The information requested in the application with respect to the current annual income of the household shall be limited to total household income and the income received by each member identified by source of income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, social security and other cash income). \* \* \* The application shall require applicants to provide total household income and the income received by each household member identified by source of income; and shall enable household receiving food stamps to provide their Food Stamp Program case number in lieu of income information. \* \* \*

4. In § 245.6a:

a. Introductory text of paragraph (a) is revised;

b. The first sentence of paragraph (a)(2) is revised;

c. Paragraph (a)(3) is revised; and

d. Paragraph (b) is amended by removing the words "school conferences" in the first sentence, and by removing paragraph (b)(4);

The revisions read as follows:

#### § 245.6a Verification requirements.

(a) *Verification Requirement.* State agencies shall ensure that by December 15 of each School Year, School Food Authorities have selected and verified a sample of their approved free and reduced price applications in accordance with the conditions and procedures described in this section. Verification activity may begin at the start of the school year but the final required sample size shall be based on the number of approved applications on file as of October 31. Any extensions to these deadlines must be approved in writing by FNS. School Food Authorities are required to satisfy the verification requirement by using either random sampling or focused sampling as described below. *Random sampling* consists of verifying a minimum of the lesser of 3 percent or 3,000 applications

which are selected by the School Food Authority. *Focused* sampling consists of selecting and verifying a minimum of: the lesser of 1 percent or 1,000 of total applications selected from non-food stamp households claiming monthly income within \$100 or yearly income within \$1200 of the income eligibility limit for free or reduced price meals; plus the lesser of one half of 1 percent (.5%) or 500 applications of food stamp households that provided food stamp case numbers in lieu of income information. A State may require all School Food Authorities to perform either random or focused sampling. School Food Authorities may choose to verify up to 100 percent of all applications to improve program integrity. Any State may, with the written approval of FNS, assume responsibility for complying with the verification requirements of this Part within any of its School Food Authorities. When assuming such responsibility, States may utilize alternate approaches to verification provided that such verification meets the requirements of this Part.

(2) *Notification of selection.* Households selected to provide verification shall be provided written notice that they have been selected for verification and that they are required, by such date as determined by the School Food Authority, to submit the requested verification information to confirm eligibility for free or reduced price benefits. \*

(3) *Food stamp recipients.* Verification of the eligibility of households who provide their Food Stamp Program case number on the application in lieu of income information shall be accomplished either by confirming with the local food stamp office that the household is currently receiving Food Stamp Program benefits or by obtaining from the household a copy of a current "Notice of Eligibility" for Food Stamp Program benefits or equivalent official documentation of current participation issued by the food stamp office. If it is not established that the household is currently receiving food stamp benefits, the procedures for adverse action specified at § 245.6(a) shall be followed. The notification of forthcoming termination of benefits provided to such households shall include a request for income information and for written evidence which confirms household income to assist those

households in establishing continued eligibility for free meal benefits.

\*(Sec. 803, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1758))

Dated: June 21, 1984.

John W. Bode,

*Deputy Assistant Secretary for Food and Consumer Services.*

[FR Doc. 84-16944 Filed 6-25-84; 8:45 am]

BILLING CODE 3410-30-M

#### Agricultural Marketing Service

##### 7 CFR Part 908

###### [Valencia Orange Reg. 332]

#### Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** Regulation 332 establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period June 29-July 5, 1984. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

**DATE:** Regulation 332 (§ 908.632) becomes effective June 29, 1984.

#### FOR FURTHER INFORMATION CONTACT:

William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone: 202-447-5975.

#### SUPPLEMENTARY INFORMATION:

##### Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The regulation is based upon the recommendation and information submitted by the Valencia Orange

Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

The regulation is consistent with the marketing policy for 1983-84. The marketing policy was recommended by the committee following discussion at a public meeting on February 14, 1984. The committee met again publicly on June 19, 1984, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges. The committee reports the demand for Valencia oranges continues to decline.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the *Federal Register* (5 U.S.C. 553), because there is insufficient time between the date when information upon which this regulation is based became available and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared policy of the Act, it is necessary to make this regulatory provision effective as specified, and handlers have been notified of the regulation and its effective date.

#### List of subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

#### PART 908—[AMENDED]

Section 908.632 is added as follows:

##### § 908.632 Valencia Orange Regulation 332.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period June 29, 1984, through July 5, 1984, are established as follows:

- (a) *District 1:* 184,000 cartons;
- (b) *District 2:* 266,000 cartons;
- (c) *District 3:* Unlimited cartons.

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

Dated: June 21, 1984.

Thomas R. Clark,

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

[FR Doc. 84-16959 Filed 6-25-84; 8:45 am]

BILLING CODE 3410-02-M

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

#### Reduction of Risk from Anticipated Transients Without Scram (ATWS) Events for Light-Water-Cooled Nuclear Power Plants

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is amending its regulations to require improvements in the design and operation of light-water-cooled nuclear power plants to reduce the likelihood of failure of the reactor protection system to shut down the reactor (scram) following anticipated transients and to mitigate the consequences of anticipated transients without scram (ATWS) event. The final rule requires the installation of certain equipment in nuclear power plants. It also encourages the development of a reliability assurance program for the reactor trip system on a voluntary basis. This will significantly reduce the risk of nuclear power plant operation.

**EFFECTIVE DATE:** July 26, 1984.

#### FOR FURTHER INFORMATION CONTACT:

David W. Pyatt, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 443-7631.

**SUPPLEMENTARY INFORMATION:** An anticipated transient without scram (ATWS) is an expected operational transient (such as a loss of feedwater, loss of condenser vacuum, or loss of offsite power to the reactor) which is accompanied by a failure of the reactor trip system (RTS), a part of the protection system, to shut down the reactor. The reactor trip system consists of those power sources, sensors, initiation circuits, logic matrices, bypasses, interlocks, racks, panels and control boards, and actuation and actuated devices that are required to initiate reactor shutdown; this includes circuit breakers, the control rods and control rod mechanisms. That portion of the RTS exclusive of the control rods and control rod mechanisms is here referred to as the scram system. ATWS accidents are a cause of concern because under certain postulated conditions they could lead to severe core damage and release of radioactivity to the environment. The ATWS question involves safe shutdown of the reactor during a transient, if there is a failure of the RTS. There have been precursors to an ATWS; the latest was a failure of the automatic portion of the RTS at the Salem 1 nuclear generating station on February 25, 1983. In that

incident, manual shutdown was accomplished after 30 seconds, and no core damage or release of radioactivity occurred.

On November 24, 1981, the Commission invited comments on three alternative proposed rules relating to ATWS (46 FR 57521). Each of the three alternative proposed rules had the objective of reduction of risk from ATWS and each featured a different approach to achieve that objective. One alternative (the Staff Rule) emphasized individual reactor evaluation to identify needed improvements. The second alternative (the Hendrie Rule) emphasized reliability assurance and would have also required certain hardware modifications. The third alternative, proposed by the Utility Group on ATWS in petition for rulemaking PRM 50-29, prescribed specific changes that were keyed to the type of reactor and its manufacturer.

Thirty-nine public comments were received at or close to the April 23, 1982 deadline for submission of comments. An additional comment was received on June 24, 1982. Copies of the comments may be examined in the Commission's Public Document Room at 1717 H Street, NW, Washington, D.C. The following organizations and individuals provided comments:

1. F. I. Lewis, Philadelphia, Pennsylvania (private citizen)
2. S. L. Hiatt, Mentor, Ohio (private citizen)
3. Washington Public Power Supply System (WPPSS)
4. Standardized Nuclear Unit Power Plant System (SNUPPS)
5. South Carolina Electric and Gas Company (South Carolina)
6. General Electric Company (GE)
7. Duke Power Company (Duke)
8. Atomic Industrial Forum (AIF)
9. Detroit Edison (DE)
10. Mississippi Power and Light Company (MP&L)
11. Texas Utilities Generating Company (TUGC)
12. Commonwealth Edison Company
13. Combustion Engineering, Incorporated (CE)
14. The Utility Group on ATWS, representing 22 utilities
15. Combustion Engineering Owners Group
16. Houston Lighting and Power (HLP&P)
17. Portland General Electric Company (PGE)
18. GPU Nuclear (GPU)
19. Babcock and Wilcox Company (B&W)
20. Ebasco Services, Incorporated (Ebasco)
21. Public Service Electric and Gas Company (PSEG)
22. Carolina Power and Light Company (CP&L), first comment
23. Stone and Webster Engineering Corporation (S&W)
24. Florida Power Corporation (FPL)
25. Gulf States Utilities Company (Gulf)
26. Duquesne Light Company

27. Wisconsin Public Service Corporation (WPSC)
28. Pacific Gas and Electric Company (PG&E)
29. Tennessee Valley Authority (TVA)
30. Pennsylvania Power and Light Company (PP&L)
31. Virginia Electric and Power Company (VEPCO)
32. Arkansas Power and Light Company (AP&L)
33. Alabama Power Company (Alabama)
34. Wisconsin Electric Power Company (WEPC)
35. Power Authority of the State of New York (PASN)
36. Yankee Atomic Electric Company (Yankee)
37. Public Service Company of Indiana (Indiana)
38. Northeast Utilities Service Company (NUSCO)
39. Carolina Power and Light Company (CP&L), second comment
40. American Electric Power Service Corporation (received June 24, 1982)

Following are members of the Utility Group on ATWS, the petitioner in the PRM-50-29.

Arkansas Power and Light Company  
Boston Edison Company  
Connecticut Yankee Power Company  
The Detroit Edison Company  
Florida Power Corporation  
Gulf States Utilities Company  
Maine Yankee Atomic Power Company  
Northeast Nuclear Energy Company  
Pacific Gas and Electric Company  
Public Service Electric and Gas Co.  
Washington Public Power Supply System  
Baltimore Gas and Electric Company  
Commonwealth Edison Company  
Consumers Power Company  
Duke Power Company  
Florida Power and Light Company  
Long Island Lighting Company  
Nebraska Public Power District  
Omaha Public Power District  
Pennsylvania Power and Light Company  
Vermont Yankee Nuclear Power Corp.

The breakdown by preference among commenters for the three alternative proposed rule approaches is as follows:

#### *Support "Utility Rule" (PRM-50-29)*

WPPSS  
DE  
Commonwealth Edison  
The Utility Group on ATWS  
HLP&P  
Ebasco  
PSEG  
FPL  
Gulf  
PP&L  
Yankee

*Support "Hendrie Rule" (Most support for this option is tentative with many reservations.)*

South Carolina  
Duquesne

CP&L, first comment (could also be considered a "No Rule" choice)  
 WPSC  
 VEPCO  
 S&W

*Favor No Rule*

SNUPPS  
 GE  
 Duke  
 AIF  
 MP&L  
 TUGC  
 CE  
 CE Owners Group  
 PGEC  
 GPU  
 B&W  
 PG&E  
 AP&L  
 Alabama  
 WEPC  
 Indiana  
 CP&L, second comment

NUSCO  
 American Electric

The Staff Rule option was favored by Ms. S. L. Hiatt who commented that it was the most stringent of the three proposals, but that it would be better to return to the implementation of specific hardware changes than to require evaluation models. Commenters TVA and PASNY stated a preference for "Alternative 2A" of NUREG-0460<sup>1</sup>, Vol. 4, which is very similar to the Utility Rule. The comments from Mr. M. I. Lewis did not favor any of the alternatives, but he pointed out limitations of both NRC-proposed rules (limitations of modeling) and felt that the Commission was not fully addressing ATWS.

Most of the utility commenters preferred that the Commission promulgate no rule on ATWS. However, many commenters chose either the Utility Rule or the Hendrie Rule as the more favorable of the alternatives presented (including some commenters within the Utility Group). The No Rule category described above includes those who felt that the risks from ATWS are already sufficiently low, plus those who recommended combining the ATWS rulemaking with other Commission activities such as the Severe Accident Program or the development of a Safety Goal.

The comments provided by the Utility Group on ATWS consisted of a three volume technical report which includes a review and evaluation of past NRC and industry studies, a generic but

substantial probabilistic risk assessment of the issue for each NSSS vendor, and a value-impact analysis of all three proposed rules. The conclusions are:

1. The Staff and Hendrie Rules fail the value-impact test.
2. Only the Utility Rule is consistent with current NRC policies.
3. The record and notice for the Staff and Hendrie Rules are inadequate.

In order to resolve the ATWS rule issue, it was necessary for the NRC staff to evaluate the Utility Group report. This was done by a technical assistance contract.

A report which provided a critique of the Utility Group comments was prepared by Energy Incorporated through Sandia National Laboratories and may be examined at the Commission's Public Document Room (PDR) at 1717 H Street, Washington, D.C. Also, a summary of 39 public comments, as well as a plan to resolve the ATWS rule, is available in SECY-82-275 at the PDR.

As proposed in SECY-82-275 and the Commission briefing on July 13, 1982, a Task Force and Steering Group of NRC personnel from several offices was formed to consider the following alternatives:

1. Promulgation of no ATWS rule or including ATWS under the Severe Accident Program;
2. Adoption of the proposed or a modified version of the Utility Group Rule (PRM-50-29);
3. Adoption of the Staff Rule or a modification of it; or
4. Adoption of those portions of the Hendrie Rule for which there exists a technical basis.

The Commission has given careful consideration to all the comments and is now publishing a final rule. This final rule uses in part the same approach that is used in the Utility Group's petition for rulemaking. Prescribed changes, keyed to the reactor's type and manufacturer, are set out in the final rule. The costs and values of these changes and of other considered changes are discussed in a document on file in the Commission's Public Document Room, entitled "Recommendations of the ATWS Task Force."

#### Summary of Staff, Hendrie, and Utility Rules

The Staff Rule (46 FR 57521) would have resolved ATWS by establishing performance criteria (e.g., there would be analyses to verify that Service Level C of the ASME Boiler and Pressure Vessel Code would not be exceeded, fuel integrity would be maintained, there would be no excessive radioactivity release, the containment would not fail,

and long-term shutdown and cooling would be assured). The Hendrie Rule (46 FR 57521), while using much of the same information base as the Staff Rule, proposed to resolve ATWS by establishing a reliability assurance program for systems that prevent or mitigate ATWS accidents and prescribing certain hardware modifications which would allow for: (1) Automatically tripping recirculation pump of a BWR under conditions indicative of an ATWS; (2) automatically actuating the standby liquid control system (SLCS) for BWRs; (3) providing a reliable scram discharge volume for BWRs; (4) providing for the prompt, automatic initiation of the auxiliary feedwater system for conditions indicative of an ATWS; and (5) assuring that the instruments necessary for the diagnosis of and recovery from ATWS accident sequences will not be disabled. Finally, the Utility Rule proposed specific design modifications for each reactor manufacturer. It contained proposals that: (a) all Westinghouse reactors have initiation of the auxiliary feedwater system and turbine trip diverse from the reactor protection system; (b) all Combustion Engineering and Babcock and Wilcox reactors have diverse initiation of auxiliary feedwater and turbine trip (similar to Westinghouse) and a diverse scram system; and (c) existing boiling water reactors manufactured by General Electric have (1) a means to trip the recirculation pumps upon receipt of a signal indicative of an ATWS, (2) a diverse scram system, and (3) a modification of the scram discharge volume. Also, new (three years after the rule becomes effective) General Electric plants would have a standby liquid control system increased to 86 gpm and all reactor licensees would institute training for operators.

#### Basis for Final Rule as Promulgated by the Commission

The vast majority of the commenters felt that the approach of the Staff Rule was too open-ended in terms of costs to resolve ATWS (e.g., the analyses could be very costly and time consuming). The Hendrie Rule was found difficult to interpret by most commenters. The ATWS Steering Group opted to evaluate generic plants, in a fashion similar to the Utility Group approach, and define the various fixes and estimate the reduction in probability for ATWS sequences as each additional requirement was added. This would then give a value (reduction in risk) that could be compared to the impact (cost in dollars) of each

<sup>1</sup>A free single copy of NUREG-0460, Vol. 4, to the extent of supply, may be requested for public comment by writing to the Publication Services Section, Document Management Branch, Division of Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

incremental requirement. There are large uncertainties in these analyses, and the detailed results of the analyses can be found in the report entitled "Recommendations of the ATWS Task Force" (discussed above). A brief discussion of the final rule's provisions, including value/impact evaluations, is given next:

*Diverse and Independent Auxiliary Feedwater Initiation and Turbine Trip for PWRs: § 50.62(c)(1)*

This was proposed by the Utility Group on ATWS. It consists of equipment to trip the turbine and initiate auxiliary feedwater independent of the reactor trip system. It has the acronym AMSAC, which stands for Auxiliary (or ATWS) Mitigating Systems Actuation Circuitry. It has a highly favorable value/impact for Westinghouse plants<sup>2</sup> and a marginally favorable value/impact for Combustion Engineering and Babcock and Wilcox plants. Since it has the potential for a spurious trip of the reactor which reduces its value/impact, it should be designed to minimize these trips.

*Diverse Scram System: 50.62 (c)(2) and (c)(3)*

This was proposed by the Utility Group on ATWS for General Electric, Combustion Engineering, and Babcock and Wilcox plants. It has a favorable value/impact from the Staff's analysis. However, the principal reasons for requiring the feature are to assure emphasis on accident prevention and to obtain the resultant decrease in potential common cause failure paths in the trip system. It also has the potential for a spurious trip of the reactor; therefore, it should be designed to minimize spurious trips. For General Electric plants, installation may extend by one or two days the downtime during a refueling outage.

A diverse scram system for Westinghouse plants was not a recommendation of the Utility Group on ATWS and was not a clear requirement of the Staff Rule or the Hendrie Rule, although the Utility Group on ATWS interpreted the Staff Rule to include it. The system does, however, have a marginally favorable value/impact for Westinghouse plants, assures emphasis on accident prevention, and results in a minimization of the potential for common cause failure paths. To assure full opportunity for public comment, the requirement for a diverse scram system for Westinghouse plants will be published separately as a proposed rule.

<sup>2</sup> The installation of a diverse scram system significantly affects the value/impact of AMSAC.

*Increased Standby Liquid Control System (SLCS): § 50.62(c)(4)*

The SLCS is a system for injecting borated water into the reactor primary coolant system. The neutron absorption by the boron causes shutdown of the reactor. Addition of this system was proposed by the Utility Group on ATWS for new plants (those receiving an operating license three years after the effective date of the final rule). The Commission believes that, with the use of the Emergency Procedure Guidelines proposed by the BWR Owners Group and General Electric that are being implemented at operating BWRs, increasing the SLCS capacity for operating plants may insure an intact containment for isolation transients, although there is uncertainty in containment failure modes. Because of the vulnerability of BWR containments to ATWS sequences, the Commission has determined that this enhanced mitigation feature is warranted. The high pressure portion of the ECCS of BWR/5 and BWR/6 licensees (HPCS) is injected into spray spargers in the core exit plenum. For these plants, the preferred location for the injection of the borated water from the SLCS is the HPCS line just external to the reactor vessel instead of the standpipe at the core inlet plenum. A similar location is preferred for those BWR/4 licensees with HPCI injection into spargers in the core exit plenum. This injection location provides significant improvement in mixing of the borated water, particularly under low vessel water level conditions such as encountered when the EPGs are followed. This injection location is also preferred, since it could prevent local power increases and possible power excursions during the recovery phase of an ATWS when cold unborated ECCS water could be added above the core. Some BWR/5 and BWR/6 licensees already have this injection location and have designed the SLCS accordingly.

*Automatic Recirculation Pump Trip for BWRs: § 50.62(c)(5)*

Recirculation pump trip (RPT) was proposed as a rule requirement by the Utility Group on ATWS. This safety feature will result in a reduction of reactor power from 100 percent to about 30 percent following a transient (and failure to scram) within a minute or so. This proposed requirement has already been implemented on all operational BWRs in response to a show cause order dated February 21, 1980. The BWR owners generally agree that this is a necessary requirement, and it is being included in the final rule for completeness.

*Automatic Initiation of Standby Liquid Control System*

One of the alternatives considered by the Task Force was an automatically initiated standby liquid control system with a capacity of greater than 86 gpm (such as 150-200 gpm). This would have resulted in a considerable risk reduction (about a factor of seven) after the ARI is installed for operating plants. Unfortunately, the cost to do this (based on information supplied by the Utility Group on ATWS) is on the order of \$24 million per plant and is significantly impacted by the costs of downtime from an inadvertent trip which would inject boron into the reactor water and by the costs of downtime for installation in existing plants. The value/impact does not favor this alternative for existing plants.

New plants (those which will receive construction permits after the effective date of this rule) will be required to have equipment for automatic initiation of the SLCS. Most of those plants already have been designed for this feature. Also, other plants that have been designed and built to include this feature must utilize the feature. The equipment for automatic SLCS actuation should be designed to perform its function in a reliable manner and to provide high reliability against spurious actuation.

*Adding Extra Safety Valves or Burnable Poisons*

One of the alternatives considered by the Task Force was adding more safety valves to plants manufactured by Combustion Engineering (CE) and Babcock and Wilcox (B&W). This would reduce the peak pressure in the reactor vessel and yield a higher probability of the plant surviving an ATWS with no core damage. The peak overpressure could also be reduced by modifying the core behavior (the fraction of the time the moderator temperature coefficient is unfavorable) by adding burnable poisons. The Utility Group on ATWS estimated that installing larger valve capacity could cost up to \$10 million per plant. A large fraction of this cost is the downtime for installation of the valves. While the probability of ATWS can be reduced about a factor of three or more, the value/impact is unfavorable for this alternative for existing plants. These plants all have large dry containments and will be most able to mitigate the radiological consequences from an ATWS. This rule does not cover enhanced pressure relief capacity for new CE and B&W plants. However, the Commission expects that this issue

would be addressed during the NRC's design review of any specific new plant or standard plant application.

#### Need for all Control Rods to be Inserted for PWRs

By using soluble boron for burnup and xenon control, PWRs normally operate at or near 100 percent power with control rods nearly out (except for some Babcock and Wilcox "rodded" reactors which keep one bank inserted for xenon control). Thus, nearly all rods are available to participate in a scram.

Insertion of only about 20 percent (approximately 10) of the control rods is needed to achieve hot, zero power provided that the inserted rods are suitably uniformly distributed. What is important is the uniform spacing of the rods. In installing a diverse scram system, the licensee can allow for partial scram failures if it is demonstrated that the rod insertion pattern is sufficiently uniformly spaced such that a hot, zero power is achieved.

#### Considerations Regarding Reliability Assurance

As a result of the failure of the Salem Unit 1 reactor to scram automatically on February 25, 1983, the NRC conducted an investigation of the events (see NUREG-0977, "NRC Fact-finding Task Force Report on the ATWS Events at Salem Nuclear Generating Station, Unit 1, on February 25, 1983" <sup>3</sup>). One of the principal findings was the lack of adequate attention being paid to the reliability of the reactor trip system. The Salem Generic Issues Task Force recommended to the Commission that a reliability assurance program be included in the final ATWS rule (NUREG-1000, Volume 1, "Generic Implications of ATWS Events at the Salem Nuclear Power Plant" <sup>4</sup>). While this rule does not require such a program, the Commission urges the voluntary development of a reliability assurance program for the RTS.

The reliability assurance program should have the following elements:

1. An analysis of the challenges to and failure modes of the RTS system, considering independent failures quantitatively and common cause failures qualitatively. An estimate of the challenge rate and the reliability of the RTS should be a part of the analysis.

<sup>3</sup> Copies of NUREG-0977 and 1000 may be purchased by calling (301) 492-9530 or by writing to the Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

2. A numerical performance standard for the RTS challenges and the RTS unavailability to use as an aid in the initial and continuing evaluation of the adequacy of the system.

3. A process of evaluating plant-specific and industry-wide operating experience to provide feedback to assess whether the RTS is performing reliably enough.

4. Procedures within quality assurance programs to ensure that the RTS performs satisfactorily in service from a reliability perspective. The frequency of challenges to the RTS should be as low as practicable.

A pivotal aspect of the ATWS issue is the reliability of the reactor trip system (RTS), including the control rods, and the difficulty associated with assessing the impact of common cause failures on the availability of the system to function when required. All RTS systems are designed for high availability, yet ATWS precursors at Kahl and Browns Ferry 3, and the ATWS event at Salem 1 did occur and were the result of common cause failures of the RTS. The Kahl and Brown Ferry 3, incidents were described in the Federal Register notice containing the proposed rules which was published on November 24, 1981 (46 FR 57521). The Salem 1 incident occurred after the proposed rules were published.

An analysis of the RTS should be performed using existing methodologies for quantitative evaluation of system reliability (e.g., unavailability). A fault tree and qualitative common cause failure analysis should be performed to identify the potential important faults of the RTS. Examples of quantitative analysis for the RTS are: WASH-1400 (the Reactor Safety Study) <sup>5</sup>, the Indian Point Probabilistic Safety Study <sup>6</sup>, the Zion Probabilistic Safety Study <sup>7</sup>, and other probabilistic safety studies performed by Industry at their own initiative or at the request of the Commission. There are an estimated 15-20 probabilistic studies of plants that have been performed or are being performed, although some of these do not include detailed RTS analyses.

Additional methodological guidance is given in the PRA Procedures Guide, NUREG/CR-2300 <sup>8</sup>, January 1983. This

<sup>4</sup> Microfiche copies are available for purchase from the Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

<sup>5</sup> These may be examined at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C. 20555.

<sup>6</sup> Copies of this NUREG may be purchased by calling (301) 492-9530 or by writing to the Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear

Guide was developed jointly by the Commission, the American Nuclear Society and the Institute of Electrical and Electronic Engineers.

Each licensee should establish a goal or benchmark to assess the performance of the trip system. The Commission and the industry have had considerable disagreement about the "correct" or "appropriate" value of RTS unavailability. It would be more fruitful for each licensee to have a benchmark for comparison as the plant operates and generates new data. The treatment of common cause failures will be analyzed in a qualitative fashion to determine if there are any significant failure modes previously unidentified. The cost of doing this can be minimized by forming or using existing owners groups, since there is much commonality in RTS designs.

Each licensee, as part of the RTS unavailability analysis, should examine its maintenance, surveillance, and testing requirements. The testing frequency would be examined to determine if testing is done too often or not often enough. The type of testing, e.g., completeness and sequencing of component verification for operability, would be thoroughly reviewed. The nature and frequency of maintenance, e.g., lubrication, cleaning, calibration, dimensional verification, physical movement, would be reviewed. Recordkeeping procedures should be reviewed.

The Commission believes that a reliability assurance program for the reactor trip systems should be developed and implemented, with clear objective of providing additional assurance that the desired high reliability of the RTS is indeed achieved and maintained. Operating experience in the United States appears to demonstrate, in some instances, that implementation of Appendix A (particularly General Design Criterion 21) and Appendix B to 10 CFR Part 50, and other NRC regulatory requirements may not have yielded the degree of reliability that is possible to achieve with available technology in a cost-effective manner. One reason for this failure might be that a reliability standard has not been sufficiently developed nor quantitatively set down in procedures. Another reason might be a failure to understand fully the dominant role played by common cause failures.

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The techniques for a reliability assurance program are in existence. They have been applied in an orderly, structured fashion in defense and aerospace applications since at least the 1960s. However, details of its application to a commercial nuclear power plant have not been worked out. Therefore, it is strongly recommended that the development of a voluntary reliability assurance program, limited to the reactor trip system, be performed jointly by the NRC and Industry, appropriately coordinated with INPO, EPRI, and the various owners groups. If this program is not voluntarily implemented in an effective manner, the Commission will reconsider the question of rulemaking in this area.

The development of industry programs on a voluntary basis has precedence in the evaluation of operating data for commercial nuclear power plants. The industry has developed the Nuclear Plant Reliability Data (NPRD) System as a voluntary program for the reporting of reliability data. The NPRD system is now undergoing a program of substantial improvement under INPO direction with close NRC interest. Even while such improvement is underway, the NPRD system is a valuable element of a reliability assurance program.

#### Challenges to Safety Systems

This rule concerns itself with mitigating systems which are intended to reduce the challenge to plant safety systems due to a low probability ATWS event. However, the Commission has concluded that a reduction in the frequency of challenges to plant safety systems should be a prime goal of each licensee, and the Commission believes that ATWS risk reductions can also be achieved by reducing the much larger frequency of transients which call for the reactor protection system to operate. Challenges to the reactor protection system may arise from such things as: Unreliable components, inadequate post-trip reviews, testing, and tolerance of inadequate or degraded control systems. Operating experience in Japan indicates a transient frequency that is substantially less than in the United States. Utilities have categorized transients for over ten years but have not specifically instituted a program to reduce them. While not specifically

required by this rule, the Commission urges licensees to analyze challenges to the plant safety systems, particularly the reactor trip system, so as to determine where improvements can be made.

#### Considerations Regarding System and Equipment Criteria

The Commission place a high premium on hardware, operating practices and maintenance practices which will reduce the frequency of challenges to plant safety systems. Therefore equipment required by this rule should be of sufficient quality and reliability so as to perform its intended function while at the same time minimizing the potential for transients, e.g., inadvertent scrams, which challenge other safety systems.

The additional equipment required by this amendment to implement diversity for auxiliary feedwater system initiation, turbine trip, recirculation pump trip, and reactor trip, while required to be reliable, will not have to meet all of the stringent requirements normally applied to safety-related equipment. The equipment required by this amendment is for the purpose of reducing the probability of unacceptable consequences following anticipated operational occurrences. Since the combination of an anticipated operational occurrence, failure of the existing reactor trip system, and a seismic event or an event which results in significant plant physical damage has a low probability, seismic qualification and physical separation criteria need not be applied to the equipment required by this rule. In view of the redundancy provided in existing reactor trip systems, the equipment required by this amendment does not have to be redundant within itself.

The amendment is to require diversity to those portions of existing reactor trip systems, where only minimal diversity is currently provided. The logic circuits and actuation devices (e.g., circuit breakers on pressurized water reactors) in existing reactor trip systems utilize redundant, but in general identical, components and thus are subject to potential common cause failures. Existing reactor trip systems, however, measure a variety of plant parameters and utilize a variety of sensor types. Common cause failures in the diverse sensors of existing reactor trip systems are considered sufficiently unlikely that additional sensor diversity is not necessary. Even though sensor diversity

is not necessary, it is desirable that sensors in the existing reactor trip system not be used to provide the signals for the diverse equipment required by this amendment. Use of the same sensor for the existing reactor trip system and the diverse equipment would result in interconnections between the two systems that are difficult to analyze and which could increase the potential for common cause failures affecting both systems. Since the sensors for the equipment required by this amendment do not have to be safety related, there should be considerable flexibility for using existing sensors without using reactor trip system sensors. However, there may be some cases where the use of less than safety-related sensors would result in increased risk from frequent safety system challenges or where it would not be cost effective to use sensors separate from those in the existing reactor trip system. This is particularly the case where not using sensors in the existing reactor trip system would result in the need to install a new sensor connected to the reactor coolant system. This could result in significant radiation doses to personnel making the modifications. Another case would be where installation of additional containment penetrations would be required. In cases where existing protection system sensors are used to provide signals to the diverse equipment, particular emphasis should be placed on the design of the method used to isolate the signal from the existing protection system to minimize the potential for adverse electrical interactions.

The equipment required by this amendment must be implemented such that it does not degrade the existing protection system. This is to be accomplished by making the diverse equipment electrically independent to the extent practicable from the existing protection system and by insuring that the existing protection system will continue to meet all applicable safety-related criteria after installation of the diverse equipment.

The following table illustrates the system specifications that the staff would find acceptable for the diverse scram and mitigating systems. The staff will publish this guidance in a Regulatory Guide or Standard Review Plan revision which will also cover

testing, maintenance, and surveillance. Additionally, the staff will issue explicit QA guidance for the non-safety related equipment in the form of a generic letter. The generic letter will specify which requirements of the following sections of Appendix B are to be applied to non-safety related equipment: (1) Instructions, procedures, and drawings, (2) document control, (3) inspection, (4)

test control, (5) control of measuring and testing equipment, (6) inspection, test, and operating status, (7) corrective action, and (8) quality assurance records.

#### **Exemptions**

Some of the older operating nuclear power plants (e.g., those licensed to operate prior to August 22, 1969) may be

granted an exemption from these amendments if they can demonstrate that their risk from ATWS is sufficiently low. Factors important to this demonstration could be power level, unique design features that could prevent or mitigate the consequences of an ATWS, remaining plant lifetime, or remote siting.

[7590-01]

**GUIDANCE REGARDING SYSTEM AND EQUIPMENT SPECIFICATIONS**

<u>System</u>	<u>Mitigating Systems</u> (Recirculation Pump Trip and Automatic SLCs actuation for BWRs; Auxiliary Feedwater Actuation and Turbine Trip for PWRs)*	<u>System</u> Redundancy	<u>Mitigating Systems</u> (Recirculation Pump Trip and Automatic SLCs actuation for BWRs; Auxiliary Feedwater Actuation and Turbine Trip for PWRs)*
<u>Guidance</u>	<p>Not required, but the implementation must be such that the existing protection system continues to meet all applicable safety related criteria.</p> <p>Not required.</p>	<p>Not required, but the implementation must be such that the existing protection system continues to meet all applicable safety related criteria.</p> <p>Not required.</p>	<p>Existing recirculation pump trip equipment installed in BWRs in accordance with previous staff requirements for the mitigation of anticipated transients without whom need not be modified.</p>

Existing recirculation pump trip equipment installed in BWRs in accordance with previous staff requirements for the mitigation of anticipated transients without whom need not be modified.

<u>System</u>	<u>Mitigating Systems</u> (Recirculation Pump Trip and Automatic SLCs actuation for BWRs; Auxiliary Feedwater Actuation and Turbine Trip for PWRs)*	<u>System</u>	<u>Mitigating Systems</u> (Recirculation Pump Trip and Automatic SLCs actuation for BWRs; Auxiliary Feedwater Actuation and Turbine Trip for PWRs)*
<u>Guidance</u>	<p>Diversity from existing Reactor Trip System</p>	<p>Diversity from existing Reactor Trip System</p>	<p>Equipment diversity to the extent reasonable and practicable to minimize the potential for common cause failures is required from the sensors to and including the components used to interrupt control rod power or vent the scram air header. Circuit breakers from different manufacturers alone is not sufficient to provide the required diversity for interruption of control rod power. The sensors need not be of a diverse design or manufacturer.</p> <p>Existing protection system instrument-sensing lines may be used. Sensors and instruments-sensing lines should be selected such that adverse interactions with existing control systems are avoided.</p>

Electrical Independence from existing Reactor Trip System

Required from sensor output to the final actuation device at which point non-safety related circuits must be isolated from safety related circuits.

Equipment diversity to the extent reasonable and practicable to minimize the potential for common cause failures is required from the sensors to, but not including, the final actuation device--e.g., existing circuit breakers may be used for auxiliary feedwater initiation. The sensors need not be of a diverse design or manufacturer.

Existing protection system instrument-sensing lines may be used. Sensors and instrument-sensing lines should be selected such that adverse interactions with existing control systems are avoided.

[7590-01]

[7590-01]

[7590-01]

System	Mitigating Systems (Recirculation Pump Trip and Automatic SLCs actuation for BWRs; Auxiliary Feedwater Actuation and Turbine Trip for PWRs)*	Diverse Reactor Trip System	Mitigating Systems (Recirculation Pump Trip and Automatic SLCs actuation for BWRs; Auxiliary Feedwater Actuation and Turbine Trip for PWRs)*
Guidance			
Physical Separation from existing Reactor Trip System	Not required, unless redundant divisions and channels in the existing reactor trip system are not physically separated. The implementation must be such that separation criteria applied to the existing protection systems are not violated.	Not required, unless redundant divisions and channels in the existing reactor trip system are not physically separated. The implementation must be such that separation criteria applied to the exist- ing protection system are not violated.	Not required, unless redundant divisions and channels in the existing reactor trip system are not physically separated. The implementation must be such that separation criteria applied to the exist- ing protection system are not violated.
Environmental Qualification	For anticipated operational occurrences only, not for accidents.	For anticipated operational occurrences only, not for accidents.	For anticipated operational occurrences only, not for accidents.
Seismic Qualification	Not required.	Explicit guidance will be issued in a letter.	Not required.
Quality Assurance for Test, Maintenance, and Surveillance	Not required, but must be capable of performing safety functions with loss of offsite power. Logic and actuation device power must be from an instrument power supply independent from the power supplies for the existing reactor trip system. Existing RTS sensor and instrument channel power supplies may be used provided the possibility of common mode failure is prevented.	Not required, but must be capable of performing safety functions with loss of offsite power. Logic power must be from an instrument power supply inde- pendent from the power supplies for the existing reactor trip system. Existing RTS sensor and instrument channel power supplies may be used provided the possibility of common mode failure is prevented.	Not required.
Safety-Related (1E) Power Supply			
Testability at Power			

With the promulgation of this final ATWS rule, the Commission has completed action on PRM-50-29. The petitioner's requests have been granted in part through the incorporation of requirements into the final rule which address the following issues: (1) (For GE BWRs) (a) recirculation pump trip following an event indicative of an ATWS, and (b) independent, redundant and diverse electrical initiation of scram following an event indicative of an ATWS; (2) (For CE and B&W PWRs) automatic initiation of auxiliary feedwater independent of the reactor protection system; and (3) (For Westinghouse PWRs) automatic initiation of turbine trip and auxiliary feedwater independent of the reactor protection system. The petitioner's request for promulgation of specific provisions *within the context of an ATWS rulemaking* for the following systems are hereby denied: (1) (For GE BWRs) a scram discharge volume system [this provision was not included in the final ATWS rule because licensees already have installed or are installing this system]; and (2) (For CE and B&W PWRs) an alternate means to shut down the reactor that is diverse from and redundant to the electrical portion of the reactor protection system *up to but not including the trip breakers* [the final ATWS rule includes a requirement for the installation of an alternate shut-down system which *must include* the trip breakers].

#### Additional View of Commissioner Asselstine

While I approve this rule, I would have required automation of the Standby Liquid Control System (SLCS) for all boiling water reactors. In addition, while I approve the elements of the final rule dealing with future reactors, I am not satisfied that sufficient attention has been given to future reactors. It appears that significant additional reductions in the ATWS risk can be achieved without incurring insurmountable economic costs if such measures are considered during the design phase. I believe this rule should not be taken as a barrier to further consideration of measures for future reactors that can reduce ATWS risk below that achieved by this rule.

#### Additional Views of Commissioner Roberts

In addition to specifying measures to reduce the risk from ATWS events, the Statement of Considerations which accompanies this rule directs licensees to "volunteer" to implement a reliability assurance program for the Reactor Trip System.

The Reactor Trip System is one of the most important safety systems at commercial nuclear power plants. However, it is only one of many safety-related systems which must be closely monitored and carefully maintained to ensure a plant's safety and reliability. It is my view that a more logical approach to reliability assurance would be to consider such a program embracing those several safety systems which experience and analyses show could be significantly improved by such a program. This program should be reviewed separately from the ATWS rulemaking effort.

Furthermore, the Commission should not call upon the industry to implement complicated and costly reliability assurance programs until it more thoroughly analyzes the concept and until it provides specific guidance.

#### Regulatory Analysis

The Commission has prepared a regulatory analysis for this regulation. The analysis examines the costs and benefits of the rule as considered by the Commission. A copy of the regulatory analysis is available for inspection and copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. Single copies of the analysis may be obtained from David W. Pyatt, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443-7631.

#### Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.). These requirements were approved by the Office of Management and Budget approval number 3150-0011.

#### Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule affects only licensees that own and operate nuclear utilization facilities licensed under sections 103 and 104 of the Atomic Energy Act of 1954, as amended. These licensees do not fall within the definition of small businesses set forth in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121.

#### List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Incorporation by reference, Nuclear

power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, and Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to 10 CFR Part 50 is published as a document subject to codification.

#### PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

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

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

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 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). Sections 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. A new § 50.62 is added to read as follows:

**§ 50.62 Requirements for reduction of risk from anticipated transients without scram (ATWS) events for light-water-cooled nuclear power plants.**

(a) **Applicability.** The requirements of this section apply to all commercial light-water-cooled nuclear power plants

(b) **Definition.** For purposes of this section, "Anticipated Transient Without Scram" (ATWS) means an anticipated operational occurrence as defined in Appendix A of this part followed by the failure of the reactor trip portion of the protection system specified in General Design Criterion 20 of Appendix A of this part.

(c) Requirements. (1) Each pressurized water reactor must have equipment from sensor output to final actuation device, that is diverse from the reactor trip system, to automatically initiate the auxiliary (or emergency) feedwater system and initiate a turbine trip under conditions indicative of an ATWS. This equipment must be designed to perform its function in a reliable manner and be independent (from sensor output to the final actuation device) from the existing reactor trip system.

(2) Each pressurized water reactor manufactured by Combustion Engineering or by Babcock and Wilcox must have a diverse scram system from the sensor output to interruption of power to the control rods. This scram system must be designed to perform its function in a reliable manner and be independent from the existing reactor trip system (from sensor output to interruption of power to the control rods).

(3) Each boiling water reactor must have an alternate rod injection (ARI) system that is diverse (from the reactor trip system) from sensor output to the final actuation device. The ARI system must have redundant scram air header exhaust valves. The ARI must be designed to perform its function in a reliable manner and be independent (from the existing reactor trip system) from sensor output to the final actuation device.

(4) Each boiling water reactor must have a standby liquid control system (SLCS) with a minimum flow capacity and boron content equivalent in control capacity to 86 gallons per minute of 13 weight percent sodium pentaborate solution. The SLCS and its injection location must be designed to perform its function in a reliable manner. The SLCS initiation must be automatic and must be designed to perform its function in a reliable manner for plants granted a construction permit after July 26, 1984, and for plants granted a construction permit prior to July 26, 1984, that have already been designed and built to include this feature.

(5) Each boiling water reactor must have equipment to trip the reactor coolant recirculating pumps automatically under conditions indicative of an ATWS. This equipment must be designed to perform its function in a reliable manner.

(6) Information sufficient to demonstrate to the Commission the adequacy of items in paragraphs (c)(1) through (c)(5) of this section shall be submitted to the Director, Office of Nuclear Reactor Regulation.

(d) Implementation. By 180 days after the issuance of the QA guidance for

non-safety related components each licensee shall develop and submit to the Director of the Office of Nuclear Reactor Regulation a proposed schedule for meeting the requirements of paragraphs (c)(1) through (c)(5) of this section. Each shall include an explanation of the schedule along with a justification if the schedule calls for final implementation later than the second refueling outage after July 26, 1984, or the date of issuance of a license authorizing operation above 5 percent of full power. A final schedule shall then be mutually agreed upon by the Commission and licensee.

Dated at Washington, DC, this day of 19th day of June 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

*Secretary of the Commission.*

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**SUPPLEMENTARY INFORMATION:** AD 83-14-06, Amendment 39-4687 (48 FR 33245; July 21, 1983), and telegraphic AD T83-20-51, issued September 30, 1983, require inspection of the wing outboard flap vane support structure for cracks. The manufacturer has since modified the outboard flap design so that some of the inspections prescribed by these AD's are no longer required. The repetitive inspection intervals may also be increased. The FAA has been advised that all airplanes in the world fleet have been modified in accordance with the manufacturer's instructions. The Canadian Department of Transport has issued an AD which reflects the revised repetitive inspections. This amendment incorporates the revised inspections and intervals and supersedes AD's 83-14-06 and T83-20-51.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

This amendment combines the inspection requirements of two existing AD's and imposes no additional regulatory or economic burden on any person. Further, it deletes inspection requirements that now are superfluous due to modification of the affected aircraft, therefore, notice and public procedure hereon are unnecessary and contrary to the public interest, and good cause having been shown therefor, the amendment may be made effective in less than 30 days.

#### List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

**Canadair:** Applies to Model CL-600-1A11 (CL-600) and Model CL-600-2A12 (CL-601) airplanes, certificated in all categories. Compliance required as indicated.

A. To detect possible fatigue cracks in the outboard flap vane support structure, accomplish the following inspections for cracks on each side of the aircraft, initially within 100 hours time in service after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 100 hours time in service.

1. Visually inspect the following parts:
  - a. The flap vane support straps, P/N 600-10460-13 and -23, at the inboard and outboard ends of the outboard flap.