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Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

*Date of amendment request:* May 1, 1995

*Brief description of amendment:* This amendment revises TS Section 6.0, throughout, to reflect an organization change in which the position of Vice President Plant Operations has been eliminated and the positions of Chief Operating Officer and Plant Manager were created. This change assigns certain management responsibilities to the Chief Operating Officer and Plant Manager.

*Date of issuance:* August 1, 1996

*Effective date:* August 1, 1996, to be implemented within 30 days of issuance.

*Amendment No.:* 100

*Facility Operating License No.* NPF-42. The amendment revised the Technical Specifications.

*Date of initial notice in Federal Register:* May 22, 1996 (61 FR 25716) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 1, 1996. No significant hazards consideration comments received: No.

*Local Public Document Room locations:* Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621 Dated at Rockville, Maryland, this 7th day of August 1996.

For the Nuclear Regulatory Commission Steven A. Varga, Director,

*Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation*

[Doc. 96-20586 Filed 8-13-96; 8:45 am]

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## RAILROAD RETIREMENT BOARD

### Sunshine Act Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on August 21, 1996, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

#### Portion Open to the Public

(1) Legislative Proposals 105-4 (Greater Access to Tax Return

Information) and 105-14 (Conform the Statute of Limitations on the Crediting of Compensation to the Statute of Limitations on the Payment of taxes).

(2) Regulations:

A. Part 211, Pay for Time Lost.

B. Parts 211, 230 and 255 (Proposed Cost Savings Analyses).

(3) Coverage Determination—CSX Transportation Company—Nurse Consultants.

(4) CSX Intermodal, Inc.

(5) Proposed Draft Agreement with the Social Security Administration.

(6) Medicare Part B Service Contract.

(7) Press Release No. 96-8—Direct Deposit Required for New RRB Claims.

(8) Policy for Determining Competitive Areas for a Reduction-in-Force (RIF).

(9) Labor Member Truth in Budgeting Status Report.

#### Portion Closed to the Public

(A) *Pending Board Appeals*

1. Walter Coleman

2. Grace P. Sansom

The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312-751-4920.

Dated: August 9, 1996.

Beatrice Ezerski,

*Secretary to the Board.*

[FR Doc. 96-20818 Filed 8-12-96; 9:38 am]

BILLING CODE 7905-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-22127; No. 812-10204]

### American Skandia Life Assurance Corporation, et al.

August 8, 1996.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of Application for an Exemption from the Investment Company Act of 1940 ("1940 Act").

**APPLICANTS:** American Skandia Life Assurance Corporation ("American Skandia"), American Skandia Assurance Corporation Variable Account B (Class 2 Sub-Accounts) ("Separate Account") and American Skandia Marketing, Inc. ("Marketing").

**RELEVANT 1940 ACT SECTIONS:** Order requested under Section 6(c) of the 1940 Act granting exemptions from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the 1960 Act.

**SUMMARY OF APPLICATION:** Applicants seek an order to permit the deduction of a mortality and expense risk charge

from the assets of the Separate Account or any other separate account ("Other Account") established by American Skandia to support certain flexible premium variable annuity contracts ("Contracts") as well as other variable annuity contracts issued by American Skandia that are substantially similar in all material respects to the Contracts ("Future Contracts"). In addition, Applicants request that the exemptions requested herein apply to any other broker-dealer that may in the future serve as distributor of and/or principal underwriter for Contracts or Future Contracts ("Future Broker-Dealers"). Any Future Broker-Dealer will be a member of the National Association of Securities Dealers, Inc. ("NASD"), and will be controlling, controlled by, or under common control with American Skandia.

**FILING DATE:** The application was filed on June 17, 1996.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 3, 1996, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, M. Patricia Paez, Corporate Secretary, c/o Jeffrey M. Ulness, Esq., American Skandia Life Assurance Corporation, One Corporate Drive, Shelton, Connecticut 06484-9932.

**FOR FURTHER INFORMATION CONTACT:** Peter R. Marcin, Law Clerk, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942-0670.

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the SEC.

#### Applicants' Representations

1. American Skandia, a stock life insurance company, is organized in Connecticut and licensed to do business in the District of Columbia and all of the

United States. American Skandia is a wholly owned subsidiary of American Skandia Investment Holding Corporation ("ASIHC"), which in turn is wholly owned by Skandia Insurance Company Ltd., a Swedish corporation.

2. The Separate Account is a separate account established by American Skandia under Connecticut law. The Separate Account is registered with the Commission as a unit investment trust under the 1940 Act, and interests in the Contracts are registered as securities under the Securities Act of 1933.

3. American Skandia will establish for each investment option offered under the Contract a Separate Account Class 2 sub-account ("Sub-account"), which will invest solely in a specific corresponding portfolio of certain designated investment companies ("Funds"). The Funds will be registered under the 1940 Act as open-end management investment companies. Each Fund portfolio will have separate investment objectives and policies.

4. Marketing will serve as the distributor of and principal underwriter for the Contracts. Marketing, a wholly owned subsidiary of ASIHC, is registered under the Securities Exchange Act of 1934 as a broker-dealer and is a member of the NASD. Future Broker-Dealers also may serve as distributors of and/or principal underwriters for Contracts and Future Contracts.

5. The Contracts are individual and group flexible premium variable annuity contracts. The Contracts may be used in connection with retirement plans that qualify for favorable federal income tax treatment under Section 401, Section 403, or Section 408 of the Internal Revenue Code of 1986, as amended, or may be purchased on a non-tax qualified basis.

6. The minimum initial payment for a Contract is \$10,000 unless the Contract owner authorizes and American Skandia accepts the use of a program of periodic purchase payments and such payments received in the first year total American Skandia's then current minimum payments under such a program. Subsequent purchase payments must be at least \$100 except pursuant to a periodic purchase payment program. There is no maximum issue age unless where required by law or regulation. No subsequent purchase payments are accepted after the annuity date. Purchasers of Contracts will not pay any sales charge when Contracts are purchased or redeemed. An owner may allocate purchase payments or account value to one or more Sub-accounts, each of which will invest in a corresponding

portfolio of the Funds. Purchase payments will be credited with the investment experience of the selected Sub-accounts. In most jurisdictions, an owner also may allocate purchase payments to a fixed investment option.

7. In the accumulation phase, a death benefit is payable upon the death of the first Contract owner or group Contract participant (if the contract is held by one or more natural persons) or upon the death of the annuitant (if the contract is held by an entity and there is no contingent annuitant).

8. The death benefit after the earlier of ten Contract years or the decedent's reaching age 85 is the Account Value.<sup>1</sup> Prior to that, the death benefit is the greater of (a) or (b), where: (a) is the Account Value of the Sub-accounts and the Interim Value of Fixed Allocations, and (b) is a minimum death benefit.<sup>2</sup> The minimum death benefit is the sum of all purchase payments less the sum of all withdrawals. If a decedent was not named an owner or annuitant as of or within 60 days of the issue date of the Contract, and did not become such as a result of the death of a prior Contract owner, group Contract participant or annuitant, the minimum death benefit is suspended as to that person for a two-year period from the date he or she first became a Contract owner, group Contract participant or annuitant.

9. Prior to the annuity date, annually and upon surrender, American Skandia will deduct a maintenance fee equaling the smaller of \$35 or 2% of Account Value in the Sub-account holdings attributable to any particular Contract in the same proportion as each such Sub-account holding bears to the Account Value of the Contract. This fee may be waived under certain circumstances. During the accumulation period, American Skandia also will deduct from

<sup>1</sup> The "Account Value" is the value of each allocation to a Sub-Account or a fixed investment option prior to the annuity date, plus any earnings, and/or less any losses, distributions and charges thereon, before assessment of any applicable maintenance fee. Account Value is determined separately for each Sub-account and for each fixed investment option and then totaled to determine Account Value for the Contract. Account Value in each fixed investment option on other than the maturity date of such investment option may be calculated using a market value adjustment.

<sup>2</sup> "Fixed Allocation" is an allocation of Account Value that is to be credited a fixed rate of interest for a specified guarantee period during the accumulation phase and is to be supported by assets in American Skandia Life Assurance Corporation Separate Account D (a non-unitized separate account). "Interim Value" is (a) the initial value of a Fixed Allocation plus all interest credited thereon, less (b) the sum of all previous transfers and withdrawals of any type from such Fixed Allocation of such Interim Value plus interest thereon from the date of each withdrawal or transfer.

the Separate Account, on a daily basis, an administration charge at the rate of 0.15% per annum of the average daily total value of assets of the Separate Account. The sum of the maintenance fee and administrative charge assessed against the Separate Account will not exceed the total anticipated costs of services to be provided over the life of the Contracts, in accordance with the applicable standards of Rule 26a-1 under the 1940 Act.

10. No deduction or charge will be made from purchase payments for sales or distribution expenses, nor will any sales charge be assessed on surrender or withdrawal from Contracts.

11. American Skandia proposes to deduct a daily mortality and expense risk charge equal to an effective annual rate of 0.50% of the daily net asset value of the Separate Account. Of this amount, approximately 0.25% is for mortality risks and 0.25% is for expense risks. The level of this charge with respect to the Contracts is guaranteed and cannot change without the approval of appropriate regulatory authorities, including the SEC. American Skandia may issue Future Contracts with a mortality and expense risk charge not exceeding 1.00%.

12. American Skandia's assumption of mortality risk guarantees that the variable annuity payments made to owners will not be affected by the mortality experience of persons receiving such payments or of the general population. American Skandia assumes this mortality risk by virtue of annuity rates incorporated in the Contracts which cannot be changed. If the experience of American Skandia is less favorable than its estimates based on actuarial determination, then American Skandia must provide monies from its general funds to fulfill its contractual obligations. Additional mortality risks are assumed when the Sub-accounts decline in value resulting in losses to American Skandia on paying death benefits. If the actual experience is more favorable than American Skandia's assumptions, however, then American Skandia will benefit from the gain.

13. The expense risk undertaken by American Skandia is that the actual cost of maintaining the contracts prior to the annuity date may exceed the administration charge and maintenance fees assessed. Because the administration charge and maintenance fees cannot be increased by American Skandia with regard to Contracts issued, American Skandia assumes the risk that these charges will be insufficient to cover actual administration and maintenance costs.

14. If the charges for the mortality and expense risks prove insufficient to cover mortality and administration and maintenance costs, then the excess of the actual expenses over the charges assessed will result in a loss; such loss will be borne by American Skandia. If the charges prove more than sufficient to cover the actual costs, however, the excess will result in a profit to American Skandia. American Skandia may use any profit derived from this mortality and expense risk charge for any lawful purpose, including payment or recoupment of sales and distribution expenses.

15. Should the Contract owner or group Contract participant live in a jurisdiction that levies a premium tax, American Skandia will pay the taxes when due. State premium taxes may range up to 3.5% of purchase payments, and are subject to change.

16. A charge of \$10 per transfer is assessable for each transfer after the twelfth such transfer in an annuity year. Renewals of transfers of Account Value from a Fixed Allocation at the end of its guarantee period are not subject to the transfer charge and are not counted in determining whether other transfers may be subject to the transfer charge.<sup>3</sup> The fee is charged only if there is Account Value in at least one Sub-account immediately subsequent to such transfer.

#### Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission to grant an exemption from any provision, rule, or regulation of the 1940 Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

3. Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) of

the 1940 Act to the extent necessary to permit the deduction of an annual mortality and expense risk charge of .50% from the net assets of the Separate Account and the Other Accounts, in connection with the Contracts, and, with respect to Future Contracts, a maximum mortality and expense risk charge of 1.00% per annum. Applicants also seek exemptive relief to permit Future Broker-Dealers to serve as distributors of and/or principal underwriters for Contracts and Future Contracts.

4. Applicants submit that American Skandia is entitled to reasonable compensation for its assumption of mortality and expense risks. Applicants represent that the mortality and expense risk charge as set forth herein, is consistent with the protection of investors because such charge is a reasonable and proper insurance charge.

5. American Skandia represents that the .50% mortality and expense risk charge is within the range of industry practice for comparable annuity contracts. This representation is based upon an analysis of publicly available information about similar products, taking into consideration such factors as, among others, the current charge levels, the existence of charge level guarantees, and guaranteed annuity rates. American Skandia will maintain at its principal offices, and make available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, Applicants' comparative review.

6. Similarly, prior to making any Future Contracts available through the Separate Account or Other Accounts, Applicants will represent that the mortality and expense risk charge under any such Future Contracts is within the range of industry practice for comparable contracts. In addition, Applicants will keep, and make available to the Commission, a memorandum setting forth the basis for this representation.

7. Applicants acknowledge that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed as being offset by distribution expenses. American Skandia has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Separate Accounts and Other Accounts, Contracts owners, and group Contract participants. American Skandia represents that it will maintain, and make available to the Commission upon request, a memorandum setting forth the basis of such conclusion. In addition,

Applicants will keep, and make available to the Commission, a memorandum setting forth the basis for the same representation with respect to Future Contracts offered by the Separate Account or Other Accounts.

8. Applicants submit that their request for exemptive relief for deduction of the mortality and expense risk charge from the assets of the Separate Account, or any Other Accounts in connection with Contracts and Future Contracts underwritten and/or distributed by Marketing or Future Broker-Dealers, would promote competitiveness in the variable annuity contract market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of American Skandia's resources. Applicants further submit that Contract owners and group Contract participants would not receive any benefit or additional protection by requiring American Skandia repeatedly to seek exemptive relief and that such requests for exemptive relief would present no issue under the 1940 Act that has not already been addressed in this application. Moreover, Applicants submit that requiring American Skandia to file additional applications would impair American Skandia's ability effectively to take advantage of business opportunities as they arise.

9. The Separate Account and Other Accounts will be invested only in a management investment company that undertakes, in the event it adopts a plan for financing distribution expenses pursuant to Rule 12b-1 under the 1940 Act, to have such plan formulated and approved by its board of directors or trustees, the majority of whom are not "interested persons" of the company within the meaning of Section 2(a)(19) of the 1940 Act.

#### Conclusion

For the reasons submitted above, Applicants submit that the exemptive relief requested is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.  
Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 96-20714 Filed 8-13-96; 8:45 am]

BILLING CODE 8010-01-M

<sup>3</sup> A "renewal" is a transaction that occurs automatically as of the last day of the guarantee period of a Fixed Allocation, unless American Skandia receives alternative instructions.